Taxation of goods

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Legislation

Value-Added Tax Act (hereafter VAT Act) subsections 7–9 of § 2; § 3; § 5; § 6; § 7; § 8; § 9; subsection 2 of § 11; § 13; § 14; clauses 1 and 2 of subsection 3, and clause 9 of subsection 4 of § 15; § 17; subsection 2 of § 21; § 28; subsection 6 of § 29; subsections 7 and 11 of § 35; subsection 3 and clause 4 of subsection 8 of § 37; subsections 2^{1}–2^{7}, 4 and 7 of § 38, and subsection 16 of § 46

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Regulation No 38 of the Minister of Finance of 30 March 2004 "The procedure for the payment of value added tax upon intra-Community acquisition of a new means of transport by a person who is not registered as a taxable person or taxable person with limited liability" (in Estonian)

Regulation No 66 of the Minister of Finance of 7 April 2004 "The procedure for treating goods transferred at sales facilities located in the customs control zone of an international airport open for passenger traffic as exports" (in Estonian)

Regulation No 70 of the Minister of Finance of 7 April 2004 "The procedure for treating goods transferred to third country natural persons as exports" (in Estonian)

Regulation No 75 of the Minister of Finance of 7 April 2004 "The procedure for the refund of value added tax paid upon the acquisition of new means of transport in special cases" (in Estonian)

Regulation No 17 of the Minister of Finance of 10 June 2014 "The format of the value added tax return" (in Estonian)

Place of supply of the goods

The place of supply of goods is Estonia

The place of supply of goods is Estonia in the following cases (**subsection 1 of § 9 of the VAT Act**):

1. the goods are transferred or made available in any other manner to the recipient in Estonia, are exported from Estonia, intra-Community supply of goods is effected or imported to a recipient

located in Estonia on condition that the goods are taxed under special arrangements for imposing value added tax on distance selling of goods imported from a third country;

2. a person of another Member State engaged in business transfers goods to be installed or assembled, and installs or assembles them in Estonia or such goods are installed or assembled in Estonia on the person's behalf.
   For the purposes of the application of this point, it is irrelevant whether or not the person of another Member State engaged in business is registered as a taxable person in his Member State, but only that the goods are installed or assembled in Estonia.
3. the goods, including goods consumed or sold on board, are transferred on board a vessel or aircraft departing on an international route from Estonia;
4. natural gas or electricity, heating or cooling energy is transferred via a network to a reseller who is an Estonian taxable person located in Estonia;

EXAMPLE

If a Latvian taxable person transfers electricity to an Estonian taxable reseller or final consumer, the place of supply and taxation of the supply is Estonia and the tax liability (reverse charge) arises for the Estonian taxable person.
However, if the recipient of the goods in Estonia is a final consumer who is a natural person, the Latvian taxable person must register as a person liable to VAT in Estonia.

5. natural gas or electricity, heating and cooling energy transmitted via a network is transferred to the acquirer of the goods who will use the goods in Estonia. If the acquirer of the goods does not use all or a part of the goods, the unused goods are still deemed to be goods used in Estonia if the acquirer of the goods has a seat or permanent business establishment in Estonia for which the goods were transferred. This provision does not apply in the case specified in the previous point.
6. goods taxed under special arrangements for imposing value added tax on the resale of second-hand goods, original works of art and collectors' items or antiques or goods taxed under special arrangements for imposing value added tax on selling of second-hand goods, original works of art, collectors' items and antiques at a public auction are transferred from Estonia to another Member State by intra-Community distance selling.

The place of supply of goods is not Estonia

Pursuant to **subsection 2 of § 9 of the VAT Act**, the place of supply of goods is not Estonia if the taxable person:

1. transfers goods and installs or assembles the goods in another Member State;
2. transfers natural gas or electricity, heating or cooling energy transmitted via a network to a reseller or another person of another Member State who will not use the goods in Estonia;
   For the purposes of point 4 of the first list and point 2 of the second list, "reseller" means a person engaged in business who generally transfers the natural gas or electricity, heating and cooling energy acquired thereby and uses such goods for own purposes only to an insignificant extent (**subsection 3 of § 9 of the VAT Act**).

3. transfers the goods taxed under special arrangements for imposing value added tax on the resale of second-hand goods, original works of art and collectors' items or antiques or under special arrangements for imposing value added tax on selling of second-hand goods, original works of art, collectors' items and antiques at a public auction by intra-Community distance selling from another Member State to Estonia.

The rules for determining the place of supply of intra-Community distance selling of goods are laid down in § 10[1] of the VAT Act.

On 1 July 2021, the thresholds on distance selling in the Member States of the European Union were abolished. An overall threshold of **10,000 euros** was introduced, which applies to the total supply of intra-Community distance sales of goods (to all Member States combined) and digital services provided to end-users in other Member States.

Taxation and declaration of the supply of goods

Taxation and declaration of the supply of goods | 127.34 KB | pdf

Export of goods

According to § 5 of the VAT Act, the export of goods means:

1. the transfer of Union goods by the transferor of the goods or foreign acquirer of the goods with transport of the goods to a destination outside the customs territory of the Union;
2. the re-export of non-Union goods placed under the temporary admission procedure with partial relief from import duties from the Union customs territory;
3. the re-export of non-Union goods placed under the inward processing procedure from the Union customs territory, or the delivery as take-away supplies, spare parts, accessories or consumption supplies on board a vessel or aircraft bound for a third country;
4. the transfer of goods exported from the Union customs territory under the outward processing procedure and the discharge of the procedure for the goods;
5. the transfer of goods by the transferor of the goods or foreign acquirer of the goods to a third country which belongs to the customs territory of the Union.
6. the transfer of goods to a third country natural person for transportation to the third country in

baggage with which the person is travelling if all of the criteria in subsection 2 of § 5 of the VAT Act are met;

7. the transfer of goods to a traveller bound for a third country only at sales facilities located in the passenger zone of an airport open for international passenger traffic.

Further clarifications on the export of goods are set out in the following subdivisions.

Transactions and operations treated as exports of goods

NEXT SUBTOPICS IN THE MENU:

- Transfer of goods with transport to a non-EU country
- Export of goods via a free zone
- Export of goods under a customs procedure
- Transfer of goods with transport to a special territory
- Transfer of goods at sales facilities located in the passenger zone of an airport open for international passenger traffic
- Sales with VAT refund, i.e. the tax-free system

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 where 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.

Export of goods via a free zone

The export of goods can also be carried out through a free zone. Union goods transferred and delivered to a free zone for export purposes and Union goods placed in a free zone which are exported directly from the free zone within two months as of the transportation to the free zone are taxed at a rate of 0% (clause 9 of subsection 3 of § 15 of the VAT Act).

Therefore, the 0% tax rate applies to the transfer of goods to a free zone regardless of whether the

goods are transferred to another Estonian person or to a foreign person, including both a person of another Member State and a person of a third country. The transfer of goods to a free zone is not export, but a supply subject to a 0% tax rate, which is declared only in line 3 of form KMD. The application of the zero rate is subject to the condition that the goods are exported directly from the free zone within 2 months of their delivery to the free zone, i.e. the goods may leave the free zone only for export to a non-Union country. The taxable person who carried out the transaction must be able to prove that the goods have been exported within that time limit (evidence may include, for example, stock records of a free zone showing the day on which the goods were delivered to and exported from the free zone, a copy of a customs declaration, etc.).

Export of goods under a customs procedure

In addition to transporting goods out of the EU under the export procedure, within the meaning of the VAT Act (clauses 2, 3 and 4 of subsection 1 of § 5 of the VAT Act) the export of goods is also:

1. the re-export of non-Union goods placed under the temporary admission procedure with partial relief from import duties from the Union customs territory;
2. the re-export of non-Union goods placed under the inward processing customs procedure from the Union customs territory, or the delivery as take-away supplies, spare parts, accessories or consumption supplies on board a vessel or aircraft bound for a third country;
3. the transfer of goods exported from the Union customs territory under the outward processing procedure and the discharge of the procedure for the goods.

Transfer of goods with transport to a special territory

The transfer of goods by the transferor of the goods or foreign acquirer of the goods to a third country which belongs to the customs territory of the Union is also deemed to be the export of goods (clause 5 of subsection 1 of § 5 of the VAT Act).

This provision regulates the export of goods from Estonia to territories which are not part of the Union's VAT territory but which are part of the customs territory of the Union. Such special territories are listed in Articles 6 and 7 of the **Council Directive 2006/112/EC** (VAT Directive). The special territory closest to Estonia is the Åland Islands.

The transfer of goods at sales facilities located in the passenger zone of an airport open for international passenger traffic

In addition to the aforementioned, the transfer of goods to a traveller or crew member bound for a third country at sales facilities located in the passenger zone of an airport open for international passenger traffic is also treated as the export of goods.

The goods are transferred to those persons on the basis of a boarding pass or a crew member's certificate and a flight plan. The export of goods is deemed to have taken place after the goods have been purchased by a traveller bound for a third country. The sale of goods to a traveller travelling to another Member State is treated as domestic turnover in Estonia and therefore VAT must be added to the price of the goods.

The procedure for treating of goods transferred at sales facilities located in the passenger zone of an international airport as exports is established by a regulation of the minister of finance (subsection 6 of § 5 of the VAT Act).

Sales with VAT refund, i.e. the tax-free system

A taxable person may also treat as export the transfer of goods to a natural person residing in a third country. It is the so-called tax-free sale, i.e. sale with a refund of VAT — at the time of sale VAT must be added to the price of the goods and is later refunded to the purchaser. The conditions a transaction must meet are the following: the goods are transferred to a natural person residing in a third country; the goods are purchased on the same date at the same point of sale from the same sales compan; the price of the goods including VAT exceeds 38 euros and the purchaser takes the goods out of the Union territory in unopened packaging not later than by the end of the third month following the transfer of the goods; the taxable person has a document with the confirmation of the customs authorities or the Police and Border Guard Board certifying that the purchaser has taken the goods out of the Union (subsection 2 of § 5 of the VAT Act).

VAT must be added to the price of the goods on the sale of goods. In addition, the seller has to fill in a receipt for sale with a refund of VAT, which is given to the buyer. When leaving the Community, the buyer must ask for the customs authorities or the Police and Border Guard Board to indicate on the receipt that the goods have been taken out of the Community unopened and within the prescribed time limit (within the three months following the month in which the receipt was issued). By means of a receipt with a corresponding confirmation, the person may contact the representative office of a VAT refund company, which will refund the VAT. However, there is a possibility that the seller has not considered it necessary to enter into a contract with a VAT refund company. In this case, the buyer himself will return the receipt with the confirmation of the customs authorities or the Police and Border Guard Board to the seller, who in turn will refund the VAT to the buyer.

The seller may declare the sale of goods as an export of goods subject to zero VAT rate only if he has a confirmation from the customs authorities or the Police and Border Guard Board certifying that the goods have been taken out of the Community (exported). If the sale of the goods has to be declared before the receipt is returned, the taxable person must initially declare the sale of the goods as domestic supply and later adjust the VAT return for the month in which the receipt was received, reducing the amount of the domestic supply and declaring the sale as a zero-rate taxable supply in fields 3, 3.2, 3.2.1 of the KMD (subsection 6 of § 29 of the VAT Act).

The procedure for treating goods transferred to a natural person of a third country as export is established by a regulation of the minister of finance.

Taxation of exports of goods

The export of goods is a supply taxable at a zero rate, except in the case of exports of goods with supply exempt from tax under § 16 of the VAT Act (clause 1 of subsection 3 of § 15 of the VAT Act). Exports of goods are declared in fields 3 and 3.2 of form KMD. Input VAT on goods and services acquired for the purposes of export of goods is deductible by the taxable person from the VAT charged on his taxable supply.

In addition to supply of exported goods, the rate of VAT is 0 per cent also for transport services for the export of goods, services for the organisation of transport of goods and ancillary services related to such transport of goods (clause 9 of subsection 4 of § 15 of the VAT Act). Ancillary transport services include the loading, unloading, handling and warehousing of goods within the framework of carriage, as well as insurance, the preparation and obtaining of documents relating to goods and the completion of customs formalities (subsection 8 of § 10 of the VAT Act).

Proof of export of goods

The export of goods is certified by the documents in proof of taking the goods out of the Union and transfer of the goods. The tax authority has the right to request additional documents in proof of the export of goods (subsection 5 (5) of the VAT Act).

The export of goods can be proved by means of documents such as customs export declaration, delivery notes, contract of purchase and sale of goods and invoice, accompanying documents for the transport

of goods, etc. The list of documents proving the export of goods cannot be exhaustive and the taxable person must be able to use the various documents available.

The treatment of a sale transaction as export is not subject to specific additional conditions, such as the applicable delivery conditions, the time of storage of the goods in Estonia, the time of receipt of a copy of the export declaration, etc.

Taxable value of exported goods

The taxable value of goods to be exported is determined on the basis of the general principles laid down in § 12 of the VAT Act, i.e. as a rule, the sales price of the goods is taken as the basis. At the same time, a clarification has been added which prevents the goods from being unrestrictedly overpriced, i.e. if the sales price of the goods is significantly higher than the normal value of the goods, the normal value of the goods must be taken as the taxable value of goods and not the total sales price (subsection 14 (1) of the VAT Act).

Upon the re-export of goods brought to Estonia under the inward processing customs procedure or upon prior export of products produced from equivalent goods under the authorisation for inward processing, the value of goods imported for processing or the value of equivalent goods shall not be included in the taxable value (subsection 14 (2) of the VAT Act).

Import of goods

For the purposes of the VAT Act, the import of goods means the following:

- ✓ the placing of non-Union goods under the customs procedure of release for free circulation or the temporary importation customs procedure with partial relief from import customs duties;
- ✓ the placing of goods covered by the outward processing procedure under the customs procedure of release for free circulation;
- ✓ other cases which result in a customs debt within the meaning of the Customs Code.

Therefore, the delivery of non-Union goods to Estonia is considered to be the import of goods under specific customs procedures. If non-Union goods delivered to Estonia are initially placed under a customs procedure not specified above (e.g. customs warehousing, temporary admission, etc.), the import of goods within the meaning of the VAT Act and the VAT obligation do not arise yet.

The import of goods occurs when the original customs procedure is discharged and the goods are released for free circulation. The goods are deemed to be imported in Estonia if the goods are placed under the above-mentioned customs procedures in Estonia or where otherwise a customs debt is incurred and the goods have been delivered to Estonia (subsection 3 of § 6 of the VAT Act). If a customs debt has been incurred in cases other than those provided for in subsection 1 of § 6 of the VAT Act, but the goods have been transported to another Member State or to a non-Community country, the import of goods does not take place in Estonia and there is no VAT liability in Estonia if the customs debt is incurred.

In addition to the above, the import of goods within the meaning of the VAT Act also means the conveyance of goods with the customs status of the Union to Estonia from a non-Community country which is outside the VAT territory of the Union but at the same time part of the customs territory of the Union (i.e. a special territory, e.g. the Åland Islands, the Canary Islands; subsection 4 of § 6 of the VAT Act).

The placing of non-Union goods under the customs procedure of release for free circulation is not deemed to be import if it (subsection 2 of § 6 of the VAT Act):

- ✓ was preceded by the placing of the goods under the temporary admission procedure with partial relief from import customs duties;

- ✓ is directly followed by the transport of the goods to a third country which is a part of the customs territory of the Union, and the goods are to remain under customs supervision until they are taken out of Estonia.

This provision specifies the concept of import of goods by laying down the principle that the import of goods can take place only once with regard to the transport of the same goods to Estonia. The concept of import of goods precludes the release of goods for free circulation when the goods are taken from a customs warehouse to a special territory (e.g. Åland Islands). Although, in this case, the customs authorities clear the goods for free circulation (because the Åland Islands are part of the customs territory), for the purposes of VAT it is re-export, since the Åland Islands are not part of the Community's VAT territory.

Taxation of imported goods

Upon taxation of the import of goods, the same rate of VAT is applied to the taxable value of the imported goods as applied to domestic sales of the goods (either 20% or 9% according to § 15 of the VAT Act), except for the import exempt from tax.

Taxable value of imported goods

The taxable value of imported goods is comprised of the customs value of the goods according to the Union Customs Code and all duties payable upon import, as well as other costs related to the delivery of the goods to destination, including commission, packing, transportation and insurance costs which have not been included in the customs value, up to the first place of destination in the territory of Estonia.

The first place of destination in the territory of Estonia is the place indicated in the accompanying documents or other documents on the basis of which the goods are imported. If this is not indicated, the first place at which the goods are loaded in the territory of Estonia is deemed to be the first place of destination.

As of 1 July 2022, the costs incurred in connection with the transport of the goods from Estonia to another destination in the European Union must be added to the taxable value of the imported goods if that destination is known at the time of importation of the goods into Estonia.

VAT is not included in the taxable value of imported goods (subsection 7 of § 13 of the VAT Act).

Travellers must pay VAT on import of goods if they have imported goods in excess of the tax-free cost limit. In that case, the taxable value of the imported goods is comprised of the purchase price of the goods and all import duties. In other words, it means that not only the part of the cost in excess of the tax-free cost limit is subject to taxation, but the purchase price of the goods as a whole, including all import duties. Travellers must prove the purchase price on the basis of payment documents. Where there are none or the customs authorities have reasonable doubts that the declared taxable value does not correspond to the amount actually paid, customs authorities will determine the customs value of the goods using methods specified in Article 74 of the Code (subsection 3^2 of § 13 of the VAT Act).

If the goods delivered into the customs territory **are imported after being placed under a special procedure**, the taxable value of the imported goods may not, as a general rule, be less than what the taxable value of those goods would have been upon import directly after having been delivered into the customs territory. If a lower taxable value is declared upon import of the goods which have been placed under a special procedure, the customs authorities will act according to the provisions of Article 140 of Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing

certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, pp. 558–893).

When the conditions laid down in Articles 69–76 of the Customs Code and Articles 127–146 of Commission Implementing Regulation (EU) 2015/2447 are fulfilled and the justification of the decrease in value satisfies the customs authorities, the customs authorities will accept the declared taxable value. If the justification of the decrease in taxable value does not satisfy the customs authorities, the customs authorities will determine the customs value pursuant to Article 74 of the Customs Code (subsection 4 of § 13 of the VAT Act).

In other words, if import takes place after the implementation of another customs procedure (e.g. release for free circulation after customs warehousing), the taxable value of the imported goods should normally not be less than what the customs value of the goods would have been upon immediate import following introduction into the Community. However, in certain justified cases, such as the sale of bankruptcy estate in a customs warehouse, the customs authorities may also accept a reduction in the taxable value. Customs authorities have the right to adjust the taxable value if necessary.

In the case of the import of goods covered by**outward processing procedure** into the Union by the person who exported the goods from the Union, the taxable value is comprised of the value added during such processing and the loading, packing, transportation and insurance costs added to the value of the goods, including all import duties. Under the standard exchange system, the taxable value of the replacement product shall be determined pursuant to the provisions of subsection 1 of § 13 of the VAT Act and it shall not be less than the taxable value of the exported goods (subsection 5 of § 13 of the VAT Act).

In this case, its mainly the value added during the processing that is taxed. This means that the taxable value does not include the initial value of goods placed under outward processing. In addition to the value added by processing, the loading, packing, transport and insurance costs, as well as all import duties will be added to the taxable value. The same provision also regulates, where the standard exchange system is used, the taxable value of the import of the replacement product, which must comply with the general principles laid down in subsection 1. At the same time, the taxable value of the replacement product may not be less than the taxable value of the goods exported. This provision is applied only if the importer of the goods into the Community is the same person as the person who originally exported the goods. If the importer is another person, the taxable value of the goods is determined in accordance with subsection 1 of § 13 of the VAT Act.

Where goods are delivered into Estonia from a third country which is part of the Union customs territory (special territory, e.g. Åland Islands, subsection 4 of § 6 of the VAT Act), the taxable value of the goods must be determined pursuant to the provisions of § 12 of the VAT Act.

Taxable value of imported goods and taxation of transport services of such goods

The taxable value of imported goods is comprised of the customs value of the goods according to the Code and all duties payable upon import, as well as other costs related to the carriage of the goods to destination, including commission, packing, transportation and insurance costs which have not been

included in the customs value, up to the first place of destination in the territory of Estonia. Consequently, as of 1 January 2006, the cost of the transport service to the first destination is also included in the taxable value of the imported goods, regardless of whether or not the supplier has added VAT to the invoice. If VAT is added to the invoice, the value of the transport service will be included in the taxable value without VAT in accordance with the provisions of subsection 1 of § 12 of the VAT Act.

Under clause 10 of subsection 4 of § 15 of the VAT Act, VAT is charged at a rate of 0% on transport services for the import of goods, services for the organisation of transport of goods and ancillary services related to such transport of goods, if the cost of such services is included in the taxable value of the goods to be imported pursuant to subsection 1 of § 13 of the VAT Act.

According to the Union Customs Code, only the costs incurred up to the point of entry of the imported goods into the territory of the European Union is included in the customs value of the goods. Transport costs are included in the customs value on the basis of the terms of delivery established as the conditions of sale. Article 72 (a) of the Code provides that the cost of transport of the imported goods after their entry into the customs territory of the Union are not to be included in the customs value. The condition is that transport costs are shown separately from the price actually paid or payable for the imported goods. As referred to in the preceding subparagraph, for the purposes of calculating the VAT payable on import, all other taxes payable on import, as well as any other costs relating to the transport of the goods to their destination will be added to the customs value.

Recording changes in the taxable value of imported goods in the VAT return if the customs return is not amended

Pursuant to subsection 2 of § 35 of the Customs Act, a customs declaration may be amended if due to an error in the declared information the following has changed:

1. the indicated quantity or the customs value of goods has changed by no less than the statistical threshold specified in Article 3 (4) of Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95;
2. the amount of the customs duty;
3. the amount of the excise duty;
4. the amount of the value added tax and the person on whose behalf the declaration was lodged is not a person liable to value added tax in Estonia.

If no amendments are made to the customs declaration, the difference between the actual taxable value of the imported goods and the taxable value declared on the customs declaration must be declared by the taxable persons in the VAT return.

Under Regulation No 17, the differences between the taxable value are recorded in the VAT return as follows:

1. the amount by which the taxable value of the imported goods is increased, unless amended in the customs declaration, must be indicated in field 1 or field 2 of the VAT return.
   The value added tax calculated on the said amount must be declared in field 4 of the VAT return and, in the case of goods acquired for the purposes of taxable supply, input VAT in the same amount must be deducted in fields 5 and 5.1 of the VAT return;
2. where the taxable value of the imported goods is reduced and the taxable value is not amended in the customs declaration, the taxable person who makes use of the partial deduction of input VAT must adjust the input tax by the corresponding amount in fields 5 and 5.1 of the VAT return.

Thus, if the customs declaration is not amended and the taxable value of the imported goods increases, the changes in the taxable value of the imported goods are recorded in the VAT return. Where the taxable value of the imported goods is reduced, the input tax must be adjusted in the VAT return only if the VAT paid on the importation of the goods has been partially deducted or has not been fully deducted. If the VAT paid on the import of goods has already been fully deducted, the excess VAT is also deducted, so there is no need to adjust the input VAT.

Changes in the taxable value of imported goods which are not reflected in the customs declaration are recorded in the VAT return for the current month, i.e. in the month in which the error is detected.

Below are examples of changes in the taxable value of imported goods in a VAT return when customs declaration is not amended:

Example 1
In July 2017, the taxable value of imported goods in the amount of 575 euros was declared.
In January 2018, it became clear that the taxable value of the goods is 705 euros.
Those goods were acquired for the purposes of taxable supply. The difference between the actual taxable value of imported goods and the taxable value declared in the customs declaration (705 euros — 575 euros) must be declared in the VAT return for January 2018 as follows:
Field 1: 130 euros
Field 4: 26 euros
Field 5: 26 euros
Field 5.1: 26 euros

Example 2
In August 2017, the taxable value of imported goods in the amount of 2,000 euros was declared.
In February 2018, it became clear that the taxable value of the goods is 2,300 euros.
The goods are used for the purpose of both taxable supply and supply exempt from tax. A 60% proportion is used for the deduction of input VAT. The difference between the actual taxable value of imported goods and the taxable value declared in the customs declaration (2,300 euros — 2,000 euros) must be declared in the VAT return for February 2018 as follows:
Field 1: 300 euros
Field 4: 60 euros

Field 5: 36 euros
Field: 5.1: 36 euros

Example 3
In July 2017, the taxable value of imported goods in the amount of 5,700 euros was declared.
In March 2018, it became clear that the taxable value of goods is 5,500 euros.

3.1. Those goods were acquired for the purposes of taxable supply: The input VAT is not adjusted in the VAT return because the VAT paid on the import of goods on the basis of the customs declaration in the amount of 1140 euros has already been deducted as input VAT in the July VAT return.

3.2. Those goods were acquired for the purposes of supply exempt from tax:
The amount of VAT initially paid on the basis of the customs declaration was 1,140 euros.
In fact, VAT in the amount of 1,100 euros must be paid (5,500 euros × 20%).
As a result, 40 euros (1,140 euros — 1,100 euros) has been paid in excess VAT. Since the goods were acquired for the purpose of tax-exempt supply, the input VAT is not deducted in full.
The input VAT is adjusted (increased) by 40 euros in the March 2018 VAT return as follows:
Field 5: 40 euros
Field 5.1: 40 euros

3.3 Those goods are used for the purpose of both taxable supply (60%) and supply exempt from tax (40%):
The amount of VAT initially paid on the basis of the customs declaration was 1,140 euros.
In fact, VAT in the amount of 1,100 euros must be paid (5,500 euros × 20%).
As a result, 40 euros (1,140 euros — 1,100 euros) has been paid in excess VAT which the taxpayer is entitled to recover.
Since 60% of the VAT paid on the basis of the customs declaration (60% × 1,140 euros), including 60% of the VAT overpaid (60% × 40 euros), has been recovered on the basis of the VAT return, the excess VAT paid is refundable, i.e. 40% × 40 euros = 16 euros in the VAT return.
The input VAT is adjusted (increased) by 16 euros in the March 2018 VAT return as follows:
Field 5: 16 euros
Field 5.1: 16 euros

Imports exempt from tax

VAT is not imposed on the import of the following goods:

- ✓ goods the supply of which is exempt from tax (§ 16 of the VAT Act);

- gold imported by Eesti Pank;
- banknotes and coins the exchange rate of which is determined by the European Central Bank.

Import, intra-Community acquisition and transfer of silver coins with a nominal value in euro or in a currency to which the European Central Bank determines the exchange rate is exempt from tax. The VAT Act treats such coins as means of payment, the acquisition and sale of which must not be included in a VAT return. In cases where a taxable person of another Member State treats the transfer of coins as intra-Community supply of goods, the tax-exempt acquisition must be indicated in the informative fields 6 and 6.1 of a VAT return.

Where silver coins do not have the exchange rate of the European Central Bank, their import, intra-Community acquisitions and sales turnover will be subject to standard taxation.

Gold coins which have been minted after 1800 and which are in circulation or have been in circulation after 1800 of a purity equal to or greater than 900 thousandths and the open market sales price of which does not exceed the price of gold contained in the coin by more than 80 per cent are also exempt from tax.

Import, intra-Community acquisitions and sales turnover of investment gold are exempt from tax. A VAT return must include tax-exempt intra-Community acquisitions and tax-exempt sales.

Since 1 July 2022, the exemption from VAT excludes the import, intra-Community acquisition and domestic transfer of so-called commemorative coins, with the exception of investment gold, which remains exempt from tax. Under the VAT Directive, the tax exemption does not apply to coins and notes which, although they are legal means of payment in the issuing country, are not intended to be used as a means of payment and are not normally used as means of payment (so-called commemorative coins and investment coins which, for tax purposes, are not treated as means of payment but as goods).

Payment of VAT upon import of goods

Upon import of goods, VAT must be paid in accordance with the procedure laid down in customs legislation. Upon import of goods from a special territory which is part of the customs territory of the Union and in which case the import of goods does not take place within the meaning of customs legislation, a person must submit information concerning the import of the goods on a customs declaration form and pay VAT pursuant to the procedure provided for in the customs legislation (subsection 2 of § 38 of the VAT Act).

Declaration of VAT on imports of goods or fixed assets in a VAT return (form KMD)

This provision allows economic operators that meet certain conditions to declare VAT calculated on goods imported from third countries in a VAT return (hereinafter form KMD) with the right to deduct it at the same time if the goods are used for the purposes of taxable supply of the economic operator. In other words, no real tax liability arises for the economic operator with the taxable supply, since the VAT calculated can be deducted as input tax in the same KMD (indicating pluses and minus in the KMD). If the economic operator has supply exempt from tax, the input tax can be deducted in part according to the proportion of tax-exempt and total supply.

CONDITIONS (AMENDMENT FROM 01.01.2019)

In order to declare VAT calculated on import on form KMD, a taxable person (e.g. a company, a self-employed person, hereinafter a person) must meet the following conditions (subsection 2^1 of § 38 of the VAT Act):

1. the taxable person has been registered as a taxable person for at least preceding 12 consecutive months,
2. the taxable person has not failed to submit tax returns on time within preceding 12 months,
3. the taxable person has not had tax arrears within the preceding 12 months.

(In this context, we treat payment of tax arrears in instalments as having no tax arrears).

A person can declare VAT on import of goods on form KMD if all the conditions are met and the tax authority has also confirmed that the conditions have been met. If one of the conditions is not met, the VAT on the import of goods must be paid in accordance with the customs legislation (on the basis of a customs declaration).

CONDITIONS WHEN IMPORTING FIXED ASSETS

Import of fixed assets is laid down as an exception. In such a case, the condition that a person must have been registered as a taxable person for at least the preceding 12 consecutive months need not be fulfilled. However, the other two conditions must be met: the taxable person must not have failed to submit tax returns on time within preceding 12 months, and has not had tax arrears in the previous 12 months.

If a person does not meet the first condition specified in subsection 2^1 of § 38 of the VAT Act (has been registered as a taxable person for at least preceding 12 consecutive months), the tax authority has the right to demand the provision of a security. The security is provided, released, used and calculated in accordance with Chapter 12 of the Taxation Act.

A security may be required only on the import of fixed assets, i.e. no security is required when goods are imported.

CHANGE FOR SELLERS OF FUEL FROM 01.02.2019

As of 1 February 2019, the amendment of subsection 2^{7} of § 38 of the VAT Act entered into force for sellers of fuel within the meaning of the Liquid Fuel Act, who hold activity licences for the import of fuel and have the obligation to provide security upon import of fuel. In this case, fuel sellers are not required to comply with the conditions laid down in subsection 2^{1} of § 38 of the VAT Act. **As of 1 February 2019**, fuel sellers subject to VAT will be entitled to declare the import of fuel in a VAT return on the basis of a notification even if the required conditions are not met.

APPLICATION FOR AN AUTHORISATION TO DECLARE VAT ON IMPORTS OF GOODS OR FIXED ASSETS ON FORM KMD

The authorisation for declaring the import of goods or fixed assets on form KMD can be applied for by a person who is a consignee in accordance with the transaction documents on the basis of which the goods were placed under the customs procedure for release for free circulation. As a general rule, the importer (consignee) is the buyer of the goods. If a person different from the buyer of the goods is indicated in transaction documents as the consignee, the importer is the consignee of the goods.

Persons wishing to declare VAT on the import of goods or fixed assets on form KMD must inform the tax authority in advance in writing (submit an application). The application can be submitted only electronically via the information system LUBA in the e-services environment e-MTA (in the **e-MTA** select **Customs** – **Rights and obligations** – **Licenses (LUBA)**).

When submitting your application, you have to choose whether you want to apply for:

- ✓ an authorisation for declaring VAT on the import of goods on form KMD (in Estonian: *kauba impordi käibemaksu KMD-l deklareerimise luba*),
- ✓ an authorisation for declaring VAT on the import of fixed assets on form KMD (in Estonian: *põhivara impordi käibemaksu KMD-l deklareerimise luba*).

When applying for the authorisation, the following information must be provided:

- ✓ information on the applicant (for both the application for goods and fixed assets) — the applicant's registry code/personal identification code, the applicant's business name, the address of the applicant's place of residence, the applicant's VAT identification number (VAT number);
- ✓ information on the applicant's contact person (for both the application for goods and fixed assets) — contact person's name, e-mail, phone number, fuel seller;
- ✓ additional information upon application for authorisation to import fixed assets — the term during which the fixed assets are imported (maximum 3 months), the value of the goods – the estimated taxable value of the imported fixed assets (§ 13 of the VAT Act), the description of the goods —

- ✓ commercial and/or technical description.

If a person has a valid authorisation for import of goods, there is no need to apply for a separate import authorisation to import fixed assets.

VERIFICATION OF COMPLIANCE WITH THE CONDITIONS

After submission of the application, the tax authority will carry out a verification of the person's compliance with the conditions of the VAT Act and confirm the compliance or non-compliance with the conditions within 30 days as of the receipt of the application (in the information system LUBA in e-MTA).

The tax authority may request additional information from the person concerning the fulfilment of the conditions if it does not have sufficient information to do so. If a security is required, the person will be required to provide a security.

ISSUE OF AUTHORISATION

The authorisation for importing goods will be issued if the person meets all three conditions. If one of the conditions is not met, the authorisation will not be issued. As a general rule, the authorisation is issued for an indefinite period.

The authorisation for the import of fixed assets is issued if either all three conditions are met by the person or, if the first condition is not met, a security is provided and it is accepted by the tax authorities. The authorisation will be issued for a fixed term, in accordance with the time limit indicated in the application.

EXTENSION, SUSPENSION AND REVOCATION OF AUTHORISATION

In the case of a person who has obtained the right to import goods, the tax authority checks the continued compliance of the taxable person with the conditions on a monthly basis (subsection 2^4 of § 38 of the VAT Act). The results can be viewed in the e-MTA in information system LUBA. If the conditions are met, the authorisation to import goods will be extended until the end of the following calendar month. If the conditions are not met, the authorisation to import the goods will be suspended until the end of the following calendar month.

The tax authority has the right to suspend the validity of an authorisation for the import of both goods and fixed assets for the duration of tax proceedings (subsection 2^4 of § 38 of the VAT Act).

In order for the authorisation for importing goods to be revoked, an application must be submitted. Since the authorisation for the import of fixed assets is issued for a limited period (until the deadline indicated in the application), the authorisation will also be revoked if the time limit is exceeded (no separate application is required).

The tax authority will repeal the right to declare VAT on both goods and fixed assets upon deletion of a

person from the register of taxable persons (subsection 2^5 of § 38 of the VAT Act) and may repeal the right by means of a notice of assessment or if the validity of the authorisation has been suspended for six consecutive months (subsection 2^6 of § 38 of the VAT Act).

Please note that the application for the authorisation to import goods must be submitted only once, unless the authorisation was not granted on the basis of a prior application or the prior authorisation has been revoked.

If a previous authorisation for the import of fixed assets has been revoked or if a fixed asset which is not mentioned in the authorisation is to be imported, a new application must be submitted.

FILLING IN CUSTOMS DECLARATIONS

If the authorisation for importing goods or fixed assets is valid, the supporting document code 6024 (authorisation for import of goods, filled in by the system) or 6025 (authorisation for import of fixed assets, entered manually) must be entered in the customs declaration and the payment method “2 — form KMD” will be added by the system.

FILLING IN FORM KMD

VAT calculated on the import of goods subject to the authorisation for import of goods or fixed assets is declared in field 4^1 of the KMD, which is a field to be filled in by the tax authority according to the data obtained from the system of import customs declarations Impulss. Economic operators themselves cannot fill/amend field 4^1.

Deduction of input VAT upon import of goods

When imported goods are used for the purposes of taxable supply, the taxable person is entitled to deduct the VAT paid or payable on import from the VAT calculated on his taxable supply.

Upon import of goods, input VAT is deducted on the basis of a customs declaration..

When goods are imported from a third country which is part of the customs territory of the Union (special territory), input VAT is deducted on the basis of the purchase invoice and the customs declaration form (subsection 2 of § 38 of the VAT Act) containing information on the imported goods (subsection 4 of § 31 of the VAT Act). If the amount of VAT due upon import of goods is paid on the basis of a decision resulting from a follow-up inspection by the customs authorities (no customs declaration is made), the input VAT is deducted based on the decision of the customs authorities (subsection 4^1 of § 31 of the VAT Act).

Upon import of goods, input VAT is deducted during a period of taxation if

- ✓ the customs authorities have released the goods or
- ✓ if the taxable person who imported the goods pays VAT through a customs agency, the person has the right to deduct the input VAT after the customs has released the goods.

However, the customs agency itself does not have the right to deduct VAT paid or payable on behalf of another person when goods are imported.

If a person has the authorisation to declare the import of goods or fixed assets on form KMD, input VAT due and deductible must be declared in the same VAT return — in the VAT return of the month of import of the goods.

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.

Transactions treated as intra-Community supply of goods

NEXT SUBTOPICS IN THE MENU

- ※ Intra-Community transfer of goods
- ※ Transport of goods to another Member State for them to be used for business purposes

※

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 20% (or 9%)”, VAT in line 4 “Total amount of value-added tax (20% of line 1 + 9% of line 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.

Transport of goods to another Member State for them to be used for business purposes

In addition to the sale of goods, the transport of goods to another Member State for them to be used for business purposes there is also regarded as intra-Community supply. For example, a company may take goods to its company, branch, etc. registered as a taxable person in Finland either for resale or for its business purposes there.

When goods are transported to another Member State for them to be used for business purposes there, the taxable value of the supply is the purchase price of the goods or, in the absence thereof, the value determined on the basis of the cost price at the time of the transaction.

The intra-Community transport of goods from one Member State to another for business purposes there requires that in the other Member State the delivery is treated as intra-Community acquisition of goods. Since this is also the case when the goods are transported to another Member State for purposes other than sales, the Estonian company will normally have to register as a taxable person in that other Member State.

Example
An Estonian taxable person has a construction company registered as a taxable person in Finland, which sells construction works installed on site. The purchasers of the construction works can be both companies registered as taxable persons in Finland as well as individual consumers. The delivery of construction material from Estonia to Finland is treated as intra-Community movement of goods from one Member State to another for business purposes there and the installation of the construction works as the provision of a service. In the case of the provision of services related to immovable property, the place of supply is the country in which the property is located, so the service provided is taxed in Finland. The sales are declared as follows:

- ✓ the taxable value of construction materials transported from one Member State to another is declared as intra-Community supply of goods at a rate of 0% (clause 2 of subsection 3 of § 15 of the VAT Act),

- ✓ the value of the construction material is declared in the report on intra-Community supply.

Therefore, intra-Community supply of goods is deemed to be transactions between taxable persons of two Member States where, at the time of the supply, the goods are located in one Member State and are transported to the purchaser (or also by the purchaser) to another Member State. Thereby the supply is deemed to have taken place in the country of departure from where the goods were transferred, but taxation takes place in the country of destination of the goods.

When goods are sold to other persons who are not taxable persons (for example, a natural person), the goods are subject to taxation in the country of transfer. As an exception, a person who is not registered as a taxable person or a taxable person with limited liability in his or her country who acquires a new means of transport or alcohol, tobacco product or fuel (except natural gas) from another Member State must pay VAT, except for a natural person who acquires it for his own use (subsection 6 § 3 of the VAT Act).

As of 1 January 2020, the transfer of goods delivered 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).

Time of intra-Community supply of goods

Intra-Community supply of goods (including the transfer of goods transported as call-off stock from Estonia to another Member State) is generated on the 15th day of the month following the month in which the goods were dispatched or made available to the purchaser or on the date on which an invoice is issued for the goods if the invoice is issued prior to the fifteenth day of the month following the month in which the goods are dispatched or made available to the purchaser (subsection 2 of § 11 of the VAT Act).

If goods delivered from Estonia to another Member State as call-off stock have not been transferred or returned to Estonia within 12 months of the arrival of the goods in the other Member State, the intra-Community supply of the goods will be deemed to have taken place on the day following the expiry of the 12 months period in accordance with clause 3 of subsection 1 of § 7 of the VAT Act (subsection 3^1 of § 7 of the VAT Act).

If the conditions for the treatment of goods as call-off stock (subsection 3^1 of § 2 of the VAT Act) are not

fulfilled within 12 months, the delivery of the goods to another Member State will be deemed to be intra-Community supply on the day on which the ground for not being treated as intra-Community supply ceases to exist.

The report on intra-Community supply must be submitted to the tax authority by the 20th day of the month following the calendar month (subsection 2 of § 28 of the VAT Act).

Movement of goods to another member state not treated as intra-community supply of goods

In certain cases, the transfer of goods to another Member State is not considered to be an intra-Community supply of goods. Subsection 2 of § 7 of the VAT Act sets out a list of transactions which are not regarded as intra-Community supply of goods. Regardless of the fact that no supply is generated from such transactions, separate records must be kept in respect of those transactions in accordance with § 36 of the VAT Act, titled “Obligations of taxable persons and taxable persons with limited liability upon keeping records”.

The following are not deemed to be intra-Community supply of goods (subsection 2 of § 7 of the VAT Act):

1. temporary transport of goods from Estonia to another Member State for the provision of services there, including the transport of a movable to another Member State for hiring or leasing of the movable or establishment of a usufruct on the movable;
   Example
   A taxable person may temporarily transfer his work equipment to another Member State in order to provide a service there, without their transfer to another Member State being treated as an intra-Community supply of goods.
2. temporary transport of goods from Estonia to another Member State for up to twenty-four months for purposes which comply with the purposes of implementing the temporary importation procedure with total relief from import duties;
   Goods may be moved temporarily to another Member State for a period not exceeding 24 months. The import of goods on the basis of that clause is justified where the import of goods from third countries for those purposes is exempt from VAT and the goods are under the control of customs authorities. Such temporary transportation of goods is used, inter alia, for the introduction of specific tools, exhibition exhibits, fairs, educational equipment, surgical and laboratory equipment, equipment used to eliminate the consequences of major accidents, etc.
3. the transport of movables from Estonia to another Member State for the purposes of them to be used in work, including for repair, evaluation, processing or installation (hereinafter work with movable) if, after the provision of the service, the movable is returned to the taxable person in

Estonia who delivered the movable to the other Member State;
A taxable person may send his business property to another Member State for repair works. The movement is not regarded as intra-Community supply where the goods are returned to the country of departure. When the goods are not returned but remain in the country in which the work was carried out, that transaction must be regarded as intra-Community supply of goods and as intra-Community acquisitions of goods. Work related to the repair of movables include, inter alia, repair, servicing, maintenance, processing, painting, etc.

4. the transfer of goods to be installed or assembled in another Member State;
The rules on intra-Community supply of goods do not apply to sales where under the VAT Act of the country of sale of the goods, the goods are taxed in the country of destination. This also concerns the transfer of goods to be installed or assembled in another Member State. **Clause 2 of subsection 3 of § 2 of the VAT Act** provides that "goods installed or assembled" are goods which are transferred and installed or assembled by or on behalf of the transferor in another Member State and in the case of which the cost of installation or assembly exceeds 5 per cent of the taxable value of the transaction. For the purposes of taxation of the transaction, the decisive factor is how the goods to be installed are defined by the country of destination of those goods. Therefore, the percentage referred to in the above definition is relevant only for goods to be installed or assembled in Estonia.
If an Estonian economic operator sells goods to another Member State and the goods are shipped there before they are assembled and are installed in another Member State, such supply will not be deemed to have occurred in Estonia and must not be declared in Estonia. On the other hand, in the case of the transfer of goods to be installed or assembled in another Member State, the taxable person must know whether, in that other Member State, there is a general system of taxation imposed under which the seller of the goods is liable to pay the tax, or a reverse charge mechanism is implemented, under which VAT is payable by the purchaser of the goods to be installed or assembled. The supply of goods, which includes assembly and installation, may be taxed in another Member State both as goods and services, depending on the legislation of that Member State. It is also important to know whether the rules of another Member State on goods to be installed or assembled have been complied with.
Example
An Estonian taxable person established in Estonia sells equipment that is assembled at a Swedish company in Sweden. The Estonian company is responsible for the assembly. In such a case, it is determined according to the Swedish VAT Act whether the supply and assembly of goods in Sweden are declared separately or whether the total supply may be declared either as a supply of goods or services. The taxable person must also know whether the person acquiring the goods will pay VAT on the goods to be installed or assembled or whether the Estonian company will be obliged to register as a VAT payer in Sweden and to tax the supply with Swedish VAT. In Estonia, the supply is declared only in line 9 (informative) of the VAT return.

5. distance selling of goods from Estonia to another Member State;
Distance sales of goods means the sale of goods within the territory of the Community where goods (other than a new means of transport or goods to be installed/assembled) are transported by the seller or another person on his behalf to a person who is not registered as a taxable person or taxable person with limited liability in that Member State.
Example
VAT on mail-order sales to private persons is paid on the basis of the law of the country in which the seller is established. However, each Member State has set a threshold for such supplies above

which the seller carrying out distance sales is required to register for VAT purposes. In Estonia, this threshold is 35 000 euros as of the beginning of the calendar year and as of the date the threshold is exceeded, the seller of another Member State is required to register as a taxable person in Estonia. If a taxable person of another Member State carries out distance sales of excise goods to a natural person for private use in Estonia, the registration obligation arises immediately as of the date on which the distance sales supply is generated.

6. delivery of goods, including goods consumed and sold on board, to a vessel or aircraft specified in clauses 3 or 4 of subsection 3 of § 15 of the VAT Act;
   In the case of goods carried on board a vessel or aircraft, the supply is generated from the transfer of the goods (not just from the delivery on board), which is taxed at the standard rate of the country of departure for goods sold and the zero rate for goods consumed on board (see also subsection 3 of § 15 of the VAT Act). Taxable supply also arises from the sale of goods carried on board to a shipping company.
7. the transport of goods from Estonia to another Member State for the purpose of taking them out of the Community if the goods are placed under the customs procedure of export in Estonia and the goods are taken out of the Community within two months after the goods were conveyed to the other Member State;
   In a situation where a taxable person transports goods to another Member State for the sole purpose of their subsequent export, the taxable person will declare the export of goods subject to a zero rate instead of the intra-Community supply of the goods. The requirement is that the customs procedure for the export of goods is started from Estonia, thus the export takes place from Estonia and the time of supply is the date on which one of the operations specified in subsection 1 of § 11 of the VAT Act was first performed.
8. the transfer of goods to the acquirer in a triangular transaction;
   This is a special provision for triangular transactions as defined in § 2 of the VAT Act, according to which the sale by a reseller of goods to the acquirer is not to be regarded as intra-Community supply of goods. In a triangular transaction, the acquirer pays VAT on the goods acquired by a triangular transaction on the basis of subsection 4 of § 3 of the VAT Act.
9. the transport of natural gas or electricity, heating or cooling energy transmitted via network from Estonia to another Member State;
   This amendment follows from Council Directive 2009/162/EU, which extends the special procedure provided for in the VAT Directive for determining the place of supply of natural gas and electricity transferred through the network also to heating and cooling energy transmitted through the network. The aim is to tax the supply of natural gas and electricity, heating or cooling energy in the country of final consumption or dealership. Special provisions apply to the generation and taxation of the supply of natural gas and electricity, heating or cooling energy (see subsections 1, 2 and 3 of § 9 of the VAT Act). Tax is imposed in the same way as on the goods to be installed or assembled - in the country where the customer is established.
10. the transport of goods from Estonia to another Member State if the goods are delivered to Estonia temporarily for up to twenty four months for a purpose which complies with the purposes of implementing the temporary importation procedure with total relief from import duties;
    Since pursuant to § 8 of the VAT Act the temporary movement of goods from another Member State to Estonia for a period of up to 24 months is not deemed to be intra-Community acquisitions, according to the same principle, intra-Community supply of goods does not arise on the basis of the relevant provision if the goods delivered to Estonia are returned to another Member State.
11. the transport of movables from Estonia to another Member State if the movables are delivered to

Estonia temporarily for the purpose of work with the movables;
In the case of temporary transport of movable property to another Member State for the purpose of its repair (work on movable property), only the supply of the service is taxed. On the basis of this principle, the temporary transport of the movable to Estonia does not result in intra-Community acquisition of goods in Estonia and the return of the movable to another Member State does not generate intra-Community supply.

12. the transport of call-off stock from Estonia to another Member State;
The transport of goods which meet the requirements for call-off stock (subsection 3^1 of § 2 of the VAT Act) to another Member State is not deemed to be intra-Community supply of goods (intra-Community supply arises upon the transfer of goods transported as call-off stocks to another Member State).
13. the transport of call-off stock from Estonia to another Member State if it has not been disposed of within 12 months as of the arrival of the call-off stock in another Member State and if it has been returned to Estonia within the specified period;
If goods delivered as call-off stock to another Member State are not disposed of in another Member State within 12 months of their arrival and the goods are returned to Estonia during that period, the goods are not to be considered as intra-Community supply of the goods.
14. the transport of the call-off stock from Estonia to another Member State if its acquirer is replaced by another taxable person within 12 months as of the arrival of the call-off stock in another Member State;
The transfer of call-off stock to another Member State is also not to be regarded as intra-Community supply of goods if, within 12 months of the arrival of the call-off stock in another Member State, the acquirer of call-off stock is replaced by another taxable person than originally agreed.

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.

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.

Intra-Community acquisition of goods which is exempt from tax

In certain cases, intra-Community acquisitions of goods are exempt from tax, although they are subject to all the rules applicable to intra-Community supply of goods.

The intra-Community acquisition of goods exempt from tax in Estonia does not generate supply and it is declared only in informational lines 6 and 6.1 of the VAT return. When the import of goods is exempt from tax, the intra-Community acquisition of such goods is accordingly exempt from tax. VAT is not payable on the intra-Community acquisition of goods even if a foreign taxable person had the right to later recover the VAT paid.

Value added tax is not imposed on the following (§ 18 of the VAT Act):

1. intra-Community acquisition of goods the supply of which is exempt from tax (§ 16);
2. intra-Community acquisition of goods the import of which is exempt from tax (§ 17);
3. intra-Community acquisition of goods by a foreign taxable person if the conditions for the refund of value added tax provided for in clauses 1–3 of subsection 1 of § 35 of this Act are met;
4. intra-Community acquisition of goods by a taxable person of another Member State in the case of a triangular transaction;
5. intra-Community acquisition of goods, if the goods are subject to immediate tax warehousing (§ 44^{1}).

Acquisitions not treated as intra-Community acquisitions of goods in Estonia

Subsection 3 of § 8 of the VAT Act sets out which transactions are not deemed to be intra-Community acquisitions of goods. For example, the acquisition of goods to be installed in Estonia is not considered to be intra-Community acquisition, as supply is generated in Estonia. Also, the temporary transport of goods to Estonia for the provision of services, including the transport of a movable to Estonia for it to be hired or leased; or establishment of a usufruct on the movable is not deemed to be acquisition.

The following are not deemed to be intra-Community acquisitions of goods (subsection 3 of § 8 of the VAT Act):

1. temporary transport of goods to Estonia for the provision of services, including the transport of a movable to Estonia for it to be hired or leased;
   For example, a taxable person may temporarily import the tools necessary for him, without the

transaction being regarded as an intra-Community acquisition of goods.

2. temporary transport of goods to Estonia for up to twenty-four months for purposes which comply with the purposes of implementing the temporary importation procedure with total relief from import duties;
   An economic operator has the right to temporarily introduce goods for purposes for which, if the goods were brought temporarily from third countries, the goods would be under the control of the customs authorities and should not be subject to import VAT. For example, it would be justified not to regard as intra-Community acquisition of goods the temporarily introduced means of transport, some tools, exhibits for fairs, educational equipment, laboratory equipment, equipment necessary for disaster relief.
3. temporary transport of movables to Estonia for the purpose of work with the movables, unless the movables are delivered to Estonia for the purposes of taking the movables out of the Community;
   Works related to movables include, inter alia, repair, servicing, maintenance, processing, painting, etc. It must be possible to identify from an economic operator's daily records the movables brought for repair or evaluation by a taxable person established in another Member State. When movable property is not returned to another Member State, the transaction must be regarded as an intra-Community sale of goods on the one hand and an intra-Community acquisition of goods on the other.
4. the acquisition of goods installed or assembled in Estonia from a taxable person of another Member State;
   Goods to be installed or assembled in Estonia are goods which are transferred and installed or assembled by or on behalf of the transferor and the cost of installation or assembly exceeds 5 per cent of the taxable value of the transaction. A taxable person in Estonia must calculate the value added tax on the specified goods on the basis of subsection 4 of § 3 of the VAT Act.
   VAT return: the value of the goods to be installed or assembled in euros in line 1 (or 2) "Acts and transactions subject to tax at a rate of 20% (or 9%)" and calculated VAT 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, input VAT is deducted in field 5 "Total amount of input VAT subject to deduction pursuant to law". The value of the acquired goods to be assembled is also declared in informative line 7 "Acquisition of other goods and services subject to VAT, incl".
5. intra-Community distance selling of goods to Estonia from another Member State;
   Distance sales are the transfer and delivery of goods (other than a new means of transport or goods to be installed or assembled) by or on behalf of the transferor to another Member State to a person not registered there as a taxable person or taxable person with limited liability. For example, if a natural person orders goods online and the goods are delivered home to him, there is no intra-Community acquisition of goods in Estonia and the foreign company is liable to pay VAT.
6. the acquisition of goods, except a new means of transport, by a natural person for personal use;
   When a natural person purchases goods, VAT is always paid by the seller. The only exception when this does not apply is when a natural person acquires a new means of transport.
7. the acquisition of goods by a person not registered as a taxable person for a total amount not exceeding the threshold specified in subsection 2 of § 21 of the VAT Act;
   On the basis of this clause, the acquisition of goods less than 10,000 euros in value per calendar year is not regarded as intra-Community acquisition of goods. If the taxable value of a person's intra-Community acquisition of goods (§ 8), except excise goods and new means of transport, exceeds 10,000 euros as of the beginning of a calendar year, the obligation to register as a taxable person with limited liability arises from the date on which the person exceeded the specified

threshold.

8. the acquisition of second-hand goods, original works of art, collectors' items or antiques from a taxable person of another Member State who applies the procedure for the calculation of taxable value provided in § 41 of the VAT Act when calculating the tax liabilities of that person in the other Member State;
9. the acquisition of goods by the acquirer in a triangular transaction;
   Upon acquisition of goods by triangular transaction in Estonia, the acquirer pays VAT on the basis of clause 4 of subsection 4 of § 3 of the VAT Act.
10. the transport of natural gas or electricity, heating or cooling energy transmitted via a network from another Member State to Estonia;
    Special provisions are applicable to the supply of natural gas or electricity, heating or cooling energy (see clause 9 of subsection 2 of § 7 and subsections 1, 2 and 3 of § 9 of the VAT Act).
11. the transport of goods from another Member State to Estonia for the purpose of taking them out of the Community if the goods are placed under the customs procedure of export in the other Member State and the goods are taken out of the Community within two months after the goods were conveyed to Estonia;
    The goods are deemed to have been exported in the other Member State in which the customs procedure was commenced. Since there is no acquisition of goods to Estonia, the person of another Member State is not obliged to register for VAT.
12. the transport of goods to Estonia if the goods are delivered to another Member State temporarily for up to twenty-four months for a purpose which complies with the purposes of implementing the temporary importation procedure with total relief from import duties;
13. the transport of movables from another Member State to Estonia if the movables were temporarily moved from Estonia to another Member State for the purposes of work with the movables;
    In the case of temporary transport of movable property to another Member State for the purpose of repair, processing or other service (common concept of work with movable property), only the supply of services is taxed and the supply of goods does not arise. Similarly, there is no intra-Community acquisition of goods upon the return of the movable to Estonia. The above transactions are not be regarded as intra-Community acquisitions only if the requirements referred to in a specific clause are met. If the basis for the transaction ceases to exist, the transaction must be regarded as an intra-Community acquisition of goods from the date on which the abovementioned requirements could no longer be applied (subsection 4 of § 8 of the VAT Act).
14. the transport of call-off stock to Estonia.
    Delivery of call-off stock to Estonia is not considered an intra-Community acquisition. Intra-Community acquisition occurs upon acquisition of call-off stock delivered to Estonia by an Estonian taxable person. If the call-off stock delivered to Estonia has not been transferred within 12 months of its arrival, intra-Community acquisition will arise for the person of another Member State who delivered the call-off stock to Estonia.

Transport of assets used for business purposes to another Member State

Intra-Community acquisitions of goods also includes the transport of assets used for business purposes from one Member State to another Member State for business purposes there.

Example
If a company engaged in business in another Member State decides to engage in business in Estonia as well and delivers the inventory used for that purpose to Estonia, the goods included in the inventory will be taxed in Estonia as the intra-Community acquisition of goods. A company may be obliged to register for VAT in Estonia.

Goods acquired by a taxable person with limited liability

Economic operators who have not registered themselves as taxable persons and persons who do not engage in business must register as taxable persons with limited liability if the taxable value of the goods (except excise goods and new means of transport) acquired by them in Estonia exceeds 10,000 euros (subsection 2 of § 21 of the VAT Act).

Therefore, economic operators who have only supply exempt from tax and who do not have the right to deduct input VAT (e.g. health services or social services) may also become taxable persons. They are subject to limited tax liability if the intra-Community acquisition of goods exceeds 10,000 euros as of the beginning of the calendar year. The acquisition of new means of transport or excise goods, as well as the acquisition of goods specified in subsection 3 of § 8 of the VAT Act, are not taken into account, as they do not constitute intra-Community acquisition of goods.

Example
A hospital has acquired instruments or other hospital goods from another Member State for 9,000 euros during the current calendar year. The next acquisition of the hospital costs 3,000 euros, so the hospital is required to register as a taxable person with limited liability from the date on which the threshold was exceeded and to pay VAT on that acquisition. Registration as a taxable person with limited liability does not give the right to deduct input VAT. The intra-Community acquirer of goods has the right to register as a taxable person with limited liability even if the above threshold (10,000 euros) has not been exceeded.

Taxable value and rates of taxation of intra-Community acquisitions of goods

Intra-Community acquisitions of goods in Estonia are taxed at either 20% or 9% of the taxable value of the goods. Upon intra-Community acquisition of goods, the taxable value of the goods is comprised of the sales price of the goods and other amounts which must be paid to the seller of the goods by the purchaser of the goods or by a third party in connection with the acquisition of the goods (subsection 1 of § 12 of the VAT Act). If the seller has added transport costs to the price of the goods, these costs will also be taxed together with the cost of the goods.

If assets used for business purposes in another Member State are brought to Estonia for business purposes here, the taxable value of the supply is calculated in the same way as the intra-Community acquisition of goods. The taxable value of supply is the purchase price of the goods or, in the absence thereof, the cost price of the goods.

Value added tax payable in Estonia or abroad is not included in the taxable value. The taxable value can be reduced by the discount granted to the purchaser on the intra-Community acquisition of goods where this is applied at the time of the sale of the goods and for commercial purposes.

Principles of taxation of triangular transactions

A triangular transaction means a transaction for the transfer of goods, which involves taxable persons from three different Member States, all of which are registered as a taxable person in their own country. A triangular transaction is a transaction in which goods are sold in two successive sales and all three parties are located in different Member States. According to the sale transaction, a taxable person established in Member State A (the transferor in the triangular transaction) sells goods to a taxable person established in Member State B (the reseller in the triangular transaction) and from B the goods are transferred to a taxable person established in Member State C (the acquirer in the triangular transaction), and the goods in question are delivered directly from Member State A to Member State C.

Under a special rule, buyer B who does not have a place of residence or place of business in the country of destination (C) does not have to register as a taxable person in the country of destination (C) in the case of a triangular transactions. The simplified arrangement is implemented in such a way that the second buyer (C) has to pay VAT on the sale of the goods by the first buyer (B) if the second buyer (C) is registered as an economic operator and a person liable to VAT in the country where the transport of the goods ends, i.e. in the Member State C. The acquisition of goods in a triangular transaction of the first

buyer (B) does not generate supply, provided that the buyer (B) has included a note about the sale of goods in a triangular transaction to the invoice, as well as the VAT numbers of himself and the next buyer (C).

Example
A Swedish taxable person C has ordered goods from an Estonian taxable person B. B does not have the required goods and orders the goods from taxable person A in France, asking the goods to be delivered directly to Sweden (C). If A, B and C are registered as taxable persons for VAT purposes in their home countries and the invoices submitted meet the required conditions, it is a triangular transaction in which the special arrangement described for the payment of VAT can be applied.

The transfer of goods is not regarded as a triangular transaction if successive sales of goods and their transport are organised under different conditions.

For example, the general rules of taxation must be followed if:

- ✓ sales within some Member State are also linked to sales. Such sales are to be regarded as domestic sales of goods subject to taxation under a general procedure;

- ✓ one or more of the parties to the transaction are not registered as taxable persons in their Member State. For example, one of the parties is a Russian company that is not registered in any Member State;

- ✓ the goods are sold together with their transportation more than three times. For example, in the case of transaction with four parties, goods are sold from the first buyer (A) to another Member State (to buyer B) for resale to a third Member State (to buyer C) and onward to a fourth Member State (D), and the goods are transported directly from the first Member State A to the fourth Member State D. In this case, purchasers B and C may be obliged to register for VAT purposes in the Member State to which the goods were delivered (D);

- ✓ the country to which the goods were delivered is Estonia (Member State C) and the first buyer B has a permanent establishment in Estonia. There is no need to use the special arrangement, since buyer B is already a taxable person in Estonia. However, in the light of the judgment of the Court of Justice in Case C-580/16, the provisions on triangular transactions can be applied where the reseller is a taxable person for VAT purposes in the Member State from which the goods were dispatched if, in carrying out the transaction, he uses a VAT identification number issued by another Member State (i.e. not the Member State from which the goods were dispatched).

Principles for the declaration of triangular transactions

The first seller A must declare a transaction as follows:

- ✓ the sale to B must be declared as intra-Community supply of goods in a VAT return,
- ✓ the value of the sale must be declared in the report on intra-Community supply as regular supply (not triangular).

The second seller B must declare the transaction as follows:

- ✓ seller B must declare the goods sold to C in the field “Triangular transaction” in a report on intra-Community supply;
- ✓ if B also has other intra-Community sales of goods to C, these sales must be declared separately from that of the triangular transactions in the report on intra-Community supply..

However, B does not declare the goods acquired from A as intra-Community acquisitions or sales to C as intra-Community sales of goods in a VAT return.

The second buyer C must declare the transaction as follows:

- ✓ the acquisition from B must be declared either in line 1 or 2 of the VAT return (according to the tax rate);
- ✓ VAT on the acquisition must be calculated in line 4 of the VAT return and,
- ✓ if goods on which the right to deduct input VAT have been acquired, the amount of VAT calculated must also be shown as deductible input VAT in line 5 of the VAT return, and
- ✓ in addition, the acquisition must be indicated in the informative line 7 of the VAT return.

In triangular transactions, the first seller of goods (A) and the first buyer and the second seller (B), as well as the second buyer (C), are taxable persons in different Member States. Below is a list of what a taxable person registered in Estonia must declare in the role of A (the transferor in a triangular transaction), B (the reseller in a triangular transaction) or C (the acquirer in a triangular transaction).

Other chain transactions

Chain transaction as a general term means that the same goods are transferred several times in a row and are delivered from the first transferor located in one Member State of the European Union to the last acquirer in another Member State of the European Union.

As of 1 January 2020, the amendments to the VAT Act provide for a transaction which, in such a chain of transactions, is treated as intra-Community supply of goods subject to 0 % VAT. As a general rule, it is the supply of goods from the first transferor to the first reseller who generates an intra-Community acquisition in the Member State of the last acquirer. All subsequent sales are taxed as domestic supply in the Member State of the last acquirer.

However, if the first reseller informs the first transferor of his VAT identification number in the Member State of dispatch of the goods, the intra-Community supply at a rate of 0% is generated by that reseller in the Member State of dispatch and the person acquiring the goods from such a reseller will generate intra-Community acquisition in the Member State of the last acquirer (if he is not the last acquirer, all subsequent sales must be taxed as domestic supply in the Member State of the last acquirer). The first transferor generates regular domestic supply in its own Member State.

These amendments do not concern triangular transactions. Both the concept of triangular transactions and the VAT treatment in the case of a triangular transaction remain as they were before 1 January 2020.

Taxation of goods to be installed and assembled

The rules of intra-Community supply of goods do not apply to sales where, in accordance with the VAT rules of the place of sale of the goods, the goods are taxed in the country of destination. This also concerns the transfer of goods to be installed or assembled in another Member State. Clause 2 of subsection 3 of § 2 of the VAT Act provides that “goods installed or assembled” are goods which are transferred and installed or assembled by or on behalf of the transferor in another Member State and in the case of which the cost of installation or assembly exceeds 5 per cent of the taxable value of the transaction.

If an Estonian economic operator sells goods to another Member State and the goods are shipped there before they are assembled and installed in another Member State, such supply will not be deemed to have occurred in Estonia and must not be declared in Estonia. On the other hand, in the case of the transfer of goods to be installed or assembled in another Member State, a taxable person must know

whether, in that other Member State, there is a general system of taxation imposed under which the seller of the goods is liable to pay the tax, or a reverse charge mechanism is implemented, under which VAT is payable by the purchaser of the goods to be installed or assembled. The supply of goods, which includes assembly and installation, may be taxed in another Member State both as goods and services, depending on the legislation of that Member State. It is also determined according to the law of the country of destination whether the goods to be installed or assembled are to be taxed in the country of destination.

Example 1
An Estonian taxable person established in Estonia sells equipment that is assembled at a Swedish company in Sweden. The Estonian company is responsible for the assembly. In such a case, it is determined according to the Swedish VAT Act whether the supply and assembly of goods in Sweden are declared separately or whether the total supply may be declared either as a supply of goods or services. The taxable person must also know whether the person acquiring the goods will pay VAT on the goods to be installed or assembled or whether the Estonian company will be obliged to register as a VAT payer in Sweden and to tax the supply with Swedish VAT.
In Estonia, the supply is declared only in field 9 (informative) of the VAT return.
The transaction is not included in the report on intra-Community supply of goods.
Pursuant to clause 4 of subsection 3 of § 8 of the VAT Act, the acquisition of goods to be installed or assembled in Estonia from a taxable person of another Member State is not deemed to be an intra-Community acquisition of goods. A taxable person must calculate VAT on the basis of clause 3 of subsection 4 of § 3 of the VAT Act.

Example 2
A Swedish taxable person sells a device to an Estonian taxable person, which he also sets up in Estonia. This is an acquisition of goods to be installed in Estonia,on which VAT is payable in Estonia. The purchase of the device is declared by the Estonian taxable person as follows:
VAT return: enter the taxable value of the device (both the device itself and the installation service) in line 1 (or 2) titled “Acts and transactions subject to tax at a rate of 20% (or 9%)” of the VAT return according to the tax rate applicable and informative line 7 “Acquisition of other goods and services subject to VAT, incl”.; enter VAT 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, input VAT is deducted in field 5 “Total amount of input VAT subject to deduction pursuant to law”.
Report on intra-Community supply: buyer does not submit it on the goods acquired.

Examples of how to declare sales and

acquisitions of goods in the EU in a VAT return and a report on intra-Community supply

Taxation of a new means of transport

GENERAL PRINCIPLES

Under the VAT Act, the taxation of a new means of transport is different from the taxation of supply of other goods. The transfer of a new means of transport to a person of another Member State together with the transport of the means of transport to the other Member State is always subject to a zero rate and the tax liability arises for all persons who acquire a new means of transport from another Member State, including natural persons. Therefore, the new means of transport will be taxed in the country where it will be registered and actually used.

A new means of transport within the meaning of the VAT Act (subsection 7 of § 2 of the VAT Act) is:

1. a vessel exceeding 7.5 metres in length which is transferred within three months as of the date of first entry into service or which has sailed for less than 100 hours, with the exception of sea-going vessels specified in clause 3 of subsection 3 of § 15 of the VAT Act;
2. aircraft the take-off weight of which exceeds 1,550 kilograms which is transferred within three months as of the date of first entry into service or which has flown for less than 40 hours, with the exception of aircraft specified in clause 4 of subsection 3 of § 15 of the VAT Act;
3. a motorised land vehicle the engine capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts and which is transferred within six months as of the date of first entry into service or which has travelled less than 6,000 kilometres.

A means of transport is **new** when it has been transferred before the expiry of three months (in the case of a motor vehicle, six months) since its initial entry into service or if it has travelled less than the time or kilometres indicated in the definition.

If one of those two conditions is met, the means of transport is considered new. Whether the means of transport is new or not is determined at the moment of sale, not when it is delivered to the Member State of destination. If the means of transport was “new” at the moment of sale and the sale took place at a zero rate, the buyer is liable to VAT in the Member State of destination even if both conditions are no longer met at the time of payment of the VAT.

Acquisition of a new means of transport

ACQUISITION OF A NEW MEANS OF TRANSPORT BY A PERSON REGISTERED AS LIABLE TO VAT

Intra-Community acquisition of goods means, inter alia, the acquisition of a new means of transport from a person of another Member State together with its transport from another Member State to Estonia (subsection 1 of § 8 of the VAT Act).

Persons liable to VAT, including persons with limited liability, upon intra-Community acquisition of a new means of transport from another Member State, make the corresponding VAT calculation on the VAT return form KMD in accordance with the rules of the intra-Community acquisition of goods.

VAT on the intra-Community acquisition of goods (including a new means of transport) is calculated by the recipient who must fill in fields 1 (taxable supply), 4 (VAT) and 6 and 6.1 (informative fields concerning the intra-Community acquisition of goods) in a VAT return. At the same time, a taxable person can also deduct the VAT calculated on the acquisition of a new means of transport in the same VAT return as input VAT pursuant to § 29 of the VAT Act by declaring it in field 5, unless the new means of transport is acquired by a person with limited liability or the taxable person does not have the right to deduct input VAT in full.

ACQUISITION OF A NEW MEANS OF TRANSPORT BY A PERSON NOT REGISTERED AS LIABLE TO VAT

If the acquirer of a new means of transport is a person who is not registered as a person liable to VAT, the person must submit to the tax authority the documents certifying the acquisition of the means of transport and pay VAT within ten calendar days as of the date on which the means of transport is delivered to Estonia, but not later than the date of registration of the means of transport (subsection 4 of § 38 of the VAT Act). In order to submit information on the intra-Community acquisition of a new means of transport, the person must use a customs declaration form, submit the purchase invoice and, at the request of the tax authority, the contract of sale (Regulation No 38 of the Minister of Finance of 30 March 2004).

The following fields must be filled in on the customs declaration form: consignor, name of the goods, consignee, country of departure, cost of the goods, currency, description of the goods, as well as the rate and amount of duty. VAT may be paid either in cash or by bank transfer. After payment of the tax, the label “Goods released” will be added to the customs declaration form.

Under clause 3 of subsection 6 of § 3 of the VAT Act, the persons provided for in subsections 1 and 2 of § 39 of the VAT Act (e.g. diplomats, consular agents, representatives of a special mission or international organisation, persons belonging to the armed forces of NATO, etc.) are exempt from the obligation to pay VAT if they acquire a new means of transport from another Member State.

A new means of transport is not taxed if it was taxed in another Member State and brought to Estonia in connection with a change of residence (Article 2 of Council Implementing Regulation 282/2011).

Sale of a new means of transport to another Member State

The transfer of a new means of transport to a person of another Member State together with the delivery of the means of transport from Estonia to another Member State is deemed to be intra-Community supply of goods pursuant to clause 2 of subsection 1 of § 7 of the VAT Act and is taxed at a 0 per cent rate. All persons who have acquired a new means of transport from another Member State, including natural persons, will be liable to tax. In order for the seller to apply the 0 per cent rate, he must be convinced that the new means of transport will be taken out of the country.

Pursuant to clause 4 of subsection 8 of § 37 of the VAT Act, upon transfer of a new means of transport to another Member State, information which proves that the goods item transferred is a new means of transport, as well as a reference to clause 2 of subsection 3 of § 15 of the VAT Act or Article 138(2)(a) of Council Directive 2006/112/EC must be entered on the invoice.

In addition to a VAT return, the intra-Community supply of goods, including the sale of a new means of transport, is also declared in the report on intra-Community supply. If the buyer is a person not registered as a taxable person in another Member State, the seller must declare on the VAT return the intra-Community supply of the goods at a 0 per cent rate, but cannot enter the sales in the report on intra-Community supply due to the lack of the buyer's tax identification number. Therefore, the seller must add copies of the sales invoices of the new means of transport to his report on intra-Community supply (subsection 5 of § 28 of the VAT Act).

The concept of "a person of another Member State" is not specifically defined in the VAT Act, but in principle it refers to legal persons having their residence or permanent establishment in another Member State and natural persons domiciled or habitually resident in another Member State. Thus, in the present case, the nationality or citizenship indicated in the passport is irrelevant in the case of natural persons and an Estonian person is also a person of another Member State if he resides, for example, in Germany.

Refund of VAT paid upon the acquisition of a new means of transport

REFUND OF VAT PAID UPON THE ACQUISITION OF A NEW MEANS OF TRANSPORT IN SPECIAL CASES

A person who purchases a new means of transport from another Member State is liable to pay VAT in his own country (i.e. the country in which the means of transport will be used) even if the seller has been paid the VAT of the country in which the seller is established.

In order to avoid the accumulation of VAT, a person who is not entitled to deduct input VAT is entitled to claim a refund of the VAT paid on the acquisition of a new means of transport or calculated on the purchase price after the delivery of the new means of transport to another Member State, provided that he proves that VAT on the intra-Community acquisition of those goods has been paid in another Member State. VAT must be refunded in an amount not exceeding the VAT calculated on the usual value of the new means of transport determined upon the delivery of the new means of transport to the other Member State (subsection 7 of § 35 of the VAT Act).

Pursuant to Regulation No 75 of the Minister of Finance of 7 April 2004, a person must submit an application for refund of the VAT paid upon the acquisition of a new means of transport to the tax authority. The application must indicate the bank account number to which the amount to be refunded will be transferred.

The application should be accompanied by:

1. contracts for the purchase and sale of a new means of transport;
2. a certificate validated by the tax authority of the Member State concerned, proving that VAT has been paid in another Member State on the intra-Community acquisition of the goods.

The tax authority will verify the compliance of the application and the documents annexed thereto with the conditions specified in the regulation and transfer the amount to be refunded to the account specified in the application **within one month as of the date of receipt of the application**. If the documents to be added to the application are submitted after the submission of the application, the VAT will be refunded within one month as of the date of receipt of the documents. If VAT is transferred to an account with a credit institution located in a foreign country, the costs related to the refund will be borne by the recipient of the VAT refund.