Taxation of goods

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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
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- 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
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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).