# Taxation of goods

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# 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 Union 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%, 9% or 5% 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. 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 of the goods is by at least 1,000 kg or the customs value is by at least 1,000

euros;
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.