

Taxation of goods

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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 8¹ 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 3¹ 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 8¹ 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 and who acquires a new means of transport or alcohol, tobacco product or fuel (except natural gas) from another Member State must pay VAT in his or her country, except for a natural person who acquires alcohol, tobacco product or fuel 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 3¹ of § 7 of the VAT Act).

If the conditions for the treatment of goods as call-off stock (subsection 3¹ 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. intra-Community distance selling of goods from Estonia to another Member State;
Intra-Community distance sales of goods means the transfer and transport of goods (other than a new means of transport or goods to be installed/assembled) by or on behalf of the transferor to another Member State to a person who is not registered as a taxable person or taxable person with limited liability in that Member State. It is also considered intra-Community distance sales if the transferor of the goods intervenes indirectly in the transport of such goods to another Member State to a person who is not registered as a taxable person or taxable person with limited liability there.
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 3¹ 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.