Taxation of goods

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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 24%" and 120 euros in line 4 "Total amount of value-added tax (24% of line 1 + 20% of line 1^1 + 22% of line 1^2 + 9% of line 2 + 5% of line 2^1 + 13% of line 2^2)" 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 24% (or 9%)", VAT calculated on that in field 4 "Total amount of value-added tax (24% of line 1 + 20% of line 1^1 + 22% of line 1^2 + 9% of line 2 + 5% of line 2^1 + 13% of line 2^2)" and line 5 "Total amount of input VAT subject to deduction pursuant to law".

- ✓ The intra-Community acquisition of goods is also declared in informative fields 6 "Intra-Community acquisitions of goods and services received from a taxable person of another Member State, total, incl" and 6.1 "Intra-Community acquisitions of goods".

- ✓ The acquisition of goods is not declared in the report on intra-Community supply.

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

and A does not have a VAT number in France, then this is a triangular transaction. The intra-Community acquisition of goods is not declared in the VAT return, and only the resale in the triangular transaction is declared in the report on intra-Community supply.

SPECIAL ARRANGEMENTS FOR TAXATION

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

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

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

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

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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}).

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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 24% (or 9%)" and calculated VAT in line 4 "Total amount of value-added tax (24% of line 1 + 20% of line 1^1 + 22% of line 1^2 + 9% of line 2 + 5% of line 2^1 + 13% of line 2^2)" 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.

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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.

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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.

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

Intra-Community acquisitions of goods in Estonia are taxed at either 24% 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. It should be borne in mind that the intra-Community acquisition of goods arises and the goods are subject to taxation in Estonia even if the seller has added VAT at the rate of his Member State to the price of the goods, but the invoice has been issued in the name of an Estonian taxable person and the goods have been transported from another Member State to Estonia. Such a situation may arise, for example, when the buyer delivers the goods to Estonia himself and is unable to prove to the seller when buying the goods that the goods are being transported to another Member State, which is why the seller has no right to apply a zero rate at the moment of sale. In this case, foreign VAT is excluded from the taxable value upon taxation of goods in Estonia. If such a situation arises, the Estonian taxable person could turn to the seller of the goods for a new 0% VAT invoice and refund of the amount of VAT paid to the seller (if he has already paid for the goods), and if necessary, provide the seller with proof that the goods have been transported to Estonia.

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.

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