Taxation of goods

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Taxation of a new means of transport

GENERAL PRINCIPLES

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

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

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

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

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

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Acquisition of a new means of transport

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

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

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

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

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

If the acquirer of a new means of transport is a person who is not registered as a person liable to VAT, the person must submit to the tax authority the documents certifying the acquisition of the means of transport and pay VAT within ten calendar days as of the date on which the means of transport is delivered to Estonia, but not later than the date of registration of the means of transport (subsection 4 of § 38 of the VAT Act).

Starting from 1 June 2025, the acquisition of a new means of transport can also be declared through the e-services environment of the ETCB. More information: **VAT return for special cases**

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

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

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Sale of a new means of transport to another Member State

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

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

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

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

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

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

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

paid the VAT of the country in which the seller is established.

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

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

The application should be accompanied by:

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

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

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