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## **VAT PROFILE, ESTONIA**

The VAT directive is implemented in Estonia through the Value Added Tax Act (in Estonian “Käibemaksuseadus”). VAT in Estonian is “käibemaks” or “KMS”.

### **1. TAXABLE PERSONS**

#### **1.1. Registration threshold for domestic businesses**

If the total value of taxable supply exceeds EUR 16,000 as calculated from the beginning of a calendar year, an obligation to register as a VAT payer will arise for the person as of the date on which the supply reaches that amount. However, a person may submit the application for registration as a VAT payer to the tax authority even if the registration obligation has not yet arisen.

The registration takes place with the Estonian Tax and Customs Board.

#### **1.2. Registration threshold for foreign businesses**

In general, there is no registration threshold for foreign persons, however, if a foreign business with no permanent establishment in Estonia creates taxable supply here and such supply is not taxed in Estonia upon the acquisition of goods or receipt of services by a VAT registered buyer, then the foreign person is obliged to register as a VAT payer as of the date on which the taxable supply was created.

The registration obligation does not arise:

- upon distance selling to an Estonian person; or
- if all the taxable supply of the person is taxable with zero rate VAT, unless it is intra-community supply of goods; or
- in case a third country taxable person provides electronically supplied services and if the person has been registered in another Member State according to the special arrangements for imposing VAT on electronically supplied services.

### **1.3. VAT grouping**

A VAT group may consist of entities which are engaged in business in Estonia and are:

- VAT payers; and
- parent company and its subsidiaries within the meaning of the Commercial Code; or
- economically and organisationally related taxable persons, where at least 50% of the shares or votes of each entity are owned by one and the same person or if persons are bound by franchise agreement.

A taxable person may belong simultaneously only to one VAT group.

Transactions made between the VAT group members are not considered supply, thus no invoices need to be issued. Members of the VAT group must submit VAT returns together and will be jointly and severally liable for payment of VAT by the due date.

The VAT group members are granted only one VAT number for transactions with non-group members. The personal VAT registration number granted to each member (except VAT number of the representative) will be suspended until the VAT group is deregistered.

### **1.4. Fiscal representative**

A non-resident may have a tax representative that needs to be licensed by the tax authorities. The tax representative can be a legal person established in Estonia or a branch of a foreign legal person entered in the Estonian commercial register. A tax representative must be solvent and have an impeccable reputation and must not have any tax arrears.

All the rights and obligations of a non-resident registered taxable person extend to the tax representative. The tax representative is required to ensure that the principal's monetary and non-monetary obligations concerning taxes are fulfilled within the set term and in full.

## **2. SIMPLIFICATION MEASURES**

### **2.1. Call off stock**

In general, if stocks are brought into Estonia for customers who are registered for VAT here, then the supplier does not need to register in Estonia. The Estonian customer then pays VAT on the acquisition. However, there are no specific call off stock simplification rules.

### **2.2. Simplified triangulation rules**

Pursuant to the Estonian VAT legislation the simplified triangulation rules may be applied if the following conditions are met:

- a taxable person established in Member State A sells goods to a taxable person established in Member State B which then in turn sells the goods to a taxable person established in Member State C;
- the goods in question are transported directly from Member State A to Member State C to the acquirer in the triangular transaction;
- the reseller B is not registered for VAT in Member State C;
- the buyer C in the triangular transaction pays VAT on the acquisition of goods.

## **3. INSTALLATION SUPPLIES**

Under the Estonian VAT Law, supply with installation means that the goods are transferred to a particular Member State and installed or assembled by or on behalf of the transferor in

that state, and the cost of installation or assembly exceeds 5% of the taxable value of the transaction. If the above conditions are fulfilled, then such goods are treated as supplied in the country where they are assembled or installed.

Reverse charge is applicable if the goods are installed or assembled in Estonia and acquired from a taxable person of another European Union (EU) Member State.

#### **4. DISTANCE SALES THRESHOLD**

The distance sales threshold is EUR 35,000.

#### **5. ACQUISITION THRESHOLD**

The acquisition threshold of goods by non-taxable person by way of intra-community acquisition (except excise goods and new means of transport) is EUR 10,000 calculated from the beginning of a calendar year. If the before mentioned threshold has been exceeded the person must register as a taxable person with limited liability.

#### **6. EFFECTIVE USE AND ENJOYMENT**

The following services are considered to be rendered in Estonia if the effective use and enjoyment takes place in Estonia:

- grant of the use of intellectual property or transfer of the right to use intellectual property;
- advertising services;
- services of consultants, accountants, lawyers, auditors and engineers, and translation services, as well as data processing and the supplying of information;
- financial services, except for leasing safes, or insurance services, including reinsurance and insurance intermediation services;
- allowing use of manpower;
- the hiring or leasing of or establishment of a usufruct on movables, except means of transport;
- electronic communications services, including assignment of rights to use transmission lines;
- electronically supplied services;
- intermediation;
- allowing access to natural gas and electricity network connections, or transmission of natural gas or electricity through networks and services directly related thereto.

#### **7. BAD DEBT RELIEF**

Bad debt relief for VAT purposes is not available in Estonia.

#### **8. VAT RATES**

##### **8.1. Standard rate**

The standard VAT rate in Estonia is 20%.

##### **8.2. Reduced rate**

The reduced rate of 9% is applicable to:

- supply of books and workbooks used as learning materials;

- supply of medicinal products, contraceptive preparations, sanitary and toiletry products, and medical equipment or medical devices intended for the personal use of disabled persons;
- supply of periodic publications, excluding publications mainly containing advertisements or personal announcements, or publications the content of which is mainly erotic or pornographic;
- supply of accommodation services or accommodation services with breakfast.

### **8.3. Zero rate**

Zero rate VAT is applicable to:

- export of goods;
- intra-community supply of goods;
- the supply of sea-going vessels navigating in international waters, except pleasure craft used for purposes other than business;
- the supply of aircraft operating mostly on international routes;
- the supply of goods which are transferred and transported to diplomatic representatives in another EU Member State, consular agents (except honorary consuls), representatives or representations of special missions or international organisations recognised by the Ministry of Foreign Affairs, diplomatic representations or consular posts of foreign states, special missions or community institutions;
- goods placed in free zones or free warehouses;
- excise goods placed in excise warehouse;
- certain goods listed in Annex V of the Council Directive 2006/112/EC placed in a VAT warehouse.

## **9. DEDUCTION OF INPUT VAT**

### **9.1. Non-recoverable input VAT and partially recoverable input VAT**

Input VAT can not be recovered if it is:

- related to goods or services relating to the reception of guests or the provision of meals or accommodation for employees;
- not related to the VAT payer's business.

If goods or services are used for the purposes of both taxable supply and supply exempt from tax, input VAT may be partially deducted from the calculated VAT. Partial deduction may be based on the proportion of the supply of the taxable person effected in Estonia and foreign countries where the input VAT can be deducted to the total amount of the supply effected by the person in Estonia and foreign countries.

### **9.2. Excess input VAT**

If VAT calculated during a taxable period is less than the amount of input VAT deductible by the taxable person during the same period, the overpaid amount of VAT may be carried forward to the following tax periods or may be recovered. The excess VAT can be recovered by presenting a respective application to the tax authority. Generally, the excess VAT will be refunded by the tax authority within 30 days as of the receipt of an application. In the case of a refund exceeding EUR 640,000, a written decision must be made and signed by the head of the regional structural unit of the Tax and Customs Board.

### **9.3. Tangible assets – adjustment periods**

For immovable property and goods and services thereto – 10 calendar years.

For other fixed assets and goods and services thereto – 5 calendar years.

The first calendar year is deemed to be the period of time between the date of acquisition of the assets and the last day of the current calendar year.

The period of time between the date of acquisition of the fixed assets and the last day of the current calendar year is deemed to be the first calendar year.

## **10. REVERSE CHARGES**

### **10.1. Reverse charge mechanism – supply of gas, electricity, heating and cooling energy**

The supply of natural gas, electricity, heating or cooling energy to a distributor in Estonia is subject to reverse charge. The place of supply is in Estonia, if the goods are supplied via a network to the Estonian distributor. Under the Estonian VAT Law, a distributor is a person, who purchases natural gas, electricity, heating and cooling energy primarily for resale, and whose own use of these goods is trivial or insignificant.

### **10.2. Reverse charge mechanism – B2B services**

As a general rule, in case of B2B provision of services the buyer is entitled to calculate VAT under the reverse charge mechanism in his country of residence. In order to apply this rule, the buyer must be:

- a foreign person engaged in business who is not registered as a taxable person in Estonia; and
- has no fixed place of business in Estonia through which the person conducts business here.

If an Estonian VAT taxable person has identified a foreign entity for the purposes of a B2B transaction, it can issue an invoice with a zero rate VAT. Invoice must contain an explanation or a reference to a legal norm that allows for zero rate application.

### **10.3. Reverse charge mechanism – non-resident suppliers**

Estonian taxable persons and foreign taxable persons registered as VAT payers in Estonia are obliged to calculate VAT under the reverse charge mechanism for the goods or services supplied in Estonia by a non-resident supplier.

### **10.4. Reverse charge mechanism – specific domestic rules**

Estonia has domestic reverse charge rules that apply to the supply of immovable or its parts, metal scrap, and gold.

## **11. INVOICE REQUIREMENTS**

### **11.1. Invoice requirements**

A VAT invoice should contain the following data:

- the serial number and date of issue of the invoice;
- the name and address of the issuer and his VAT registration number;
- the name and address of the acquirer of goods or the recipient of services;
- the VAT number of the acquirer of goods or the recipient of services if he is liable for tax upon the acquisition;

- the name or description of the goods or services;
- the quantity of the goods or extent of the services;
- the date of dispatch of the goods or provision of the services and (or) an earlier date of receipt of full or partial payment for the goods or services if this date can be determined and differs from the date of issue of the invoice;
- the price of the goods or services exclusive of value added tax and any discounts, if these are not included in the price;
- the taxable amount broken down by different rates of value added tax together with the applicable rates of VAT, or the amount of supply exempt from tax;
- the amount of VAT payable in euros.

### **11.2. Time limits for issuing invoices**

An invoice should be issued within 7 calendar days as of the date on which the goods are dispatched or made available to the purchaser or the services are provided. As a general practice, electricity, heating, and water suppliers invoice their clients on a monthly basis.

### **11.3. Self billing**

Estonian law allows that the invoice is issued by the acquirer of goods or the recipient of services on the condition that, before supply is effected, there is a written agreement between the two parties. The agreement must contain the procedure for the acceptance of the invoice by the taxable person.

### **11.4. Storage of invoices**

The minimum term of storage of invoices is 7 years.

### **11.5. Electronic invoicing**

Invoices can be issued in an electronic form and must contain the same information as a paper invoice. Electronic invoices must be reproducible in writing.

## **12. VAT COMPLIANCE**

### **12.1. VAT return period**

VAT returns should be submitted to the tax authority and VAT must be paid by the 20th day of the month following the period of taxation.

The first taxable period for a taxable person or taxable person with limited liability is the period from the date of VAT registration until the end of the same calendar month. If the number of calendar days in the first taxable period is less than fifteen, the taxable person or taxable person with limited liability may declare the supply of the first period together with the supply of the following taxable period and submit 1 return for the 2 taxable periods.

### **12.2. Filing of VAT return and payment**

VAT returns must be submitted electronically, if the person has been a taxable person for at least 12 months. The VAT returns may be submitted on paper upon approval of the tax authority.

### **12.3. European Sales Listing**

The deadline for the submission of European Sales Listing is the 20<sup>th</sup> date of the month following the month of supply.

#### **12.4. National recapitulative statement**

There are no national recapitulative statements in Estonia.

#### **12.5. Tax assessment period**

The tax assessment period in Estonia is 3 years. In the event of intentional failure to pay or withhold an amount of tax, the tax assessment period is 6 years.

The tax assessment period starts to run on the due date for the submission of the tax return which was not submitted or which contained information that caused an amount of tax to be calculated incorrectly.

### **13. SPECIAL RULES**

#### **13.1. Postponed accounting on import**

The Value Added Tax Act allows the application of a special tax regime for transactions concerning the importation of goods. In order to apply for the special tax regime the taxable person must submit a respective application to the Tax and Custom Board. Additionally, the following criteria must be fulfilled:

- the taxable person must have been VAT registered for at least 12 consecutive months prior to the submission of the customs declaration under which VAT on imported goods will be declared;
- in the 12 months prior to filing the customs declaration, the taxable person's zero rated supply has formed at least 50% of the total supply;
- the taxable person has been submitting tax returns electronically for at least 12 months prior to the submission of the customs declaration;
- the taxable person does not have any outstanding (unfiled) tax returns;
- the taxable person does not have any tax arrears for the previous 12 months.

#### **13.2. Tax warehouse**

Estonia offers a tax warehouse regime under which VAT is not applicable to the supply of goods placed in a tax warehouse. The location of the warehouse must be approved by the tax authority, and only goods stipulated in Annex V of the Council Directive 2006/112/EC can be stored in the warehouse to enjoy VAT benefits.

### **14. PENALTIES**

#### **14.1. Penalties for not filling a VAT return or a European Sales Listing in time**

Failure to present VAT returns or European Sales Listing at due time may result in a penalty of up to EUR 13,000.

#### **14.2. Penalties for not paying VAT in time**

If a taxable person fails to pay VAT by the due date, the taxable person is required to pay interest on the amount of tax outstanding by the due date. The rate of interest payable is 0.06% per day.

#### **14.3. Penalties on VAT assessments when VAT is not reported correctly**

If the VAT is not paid up to the correct amount, the tax authority may fine the taxable person with the late interest fee which is 0.06% per day.

## **15. INTRASTAT**

Intrastat reports have to be submitted to the Estonian Statistics Board.

### **15.1. Intrastat threshold**

For 2011, the annual threshold for Intrastat reporting is EUR 130,000 for arrivals and EUR 90,000 for dispatches.

### **15.2. Intrastat data to be reported**

The information to be reported is:

- code of the goods;
- the Member State of origin/destination;
- country of origin;
- nature of the transaction;
- net weight (kilograms);
- the invoice value of the goods;
- currency;
- statistical value;
- means of transport;
- delivery terms and place.