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VAT PROFILE, ESTONIA

The European Union (EU) VAT Directive is implemented in Estonia through the Value Added Tax (VAT) Act (in Estonian: Käibemaksuseadus). VAT in Estonian is “käibemaks”.

1. Taxable Persons**1.1 VAT registration of domestic taxable persons**

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 taxable person for VAT purposes 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 taxable person to the tax authority even if the registration obligation has not yet arisen.

The registration takes place with the Estonian Tax and Customs Board. The application form (Vorm KR) can be downloaded at the following link:

http://www.emta.ee/public/vormid/maksuvormid/KMD_jm_kaibemaksu_vormid/2012/Vorm_KR_2012_taidetav.pdf

This form has to be filled in and sent to the following address:

*Põhja maksu- ja tollikeskus
Endla 8, Tallinn 15177
Estonia*

The Estonian tax authorities may also ask for proof that business activities are performed or will be performed (eg, business plans, contracts, etc.).

The VAT number will be provided within three days if all the required documents are submitted. A retroactive registration is also possible but only if the date of obligatory registration has been passed and from the date on which the registration should have taken place according to the Estonian VAT Act.

1.2 VAT registration of foreign taxable persons

There is no registration threshold for foreign persons. If a foreign business with no fixed establishment in Estonia makes taxable supply in Estonia, and such supply is not taxed in Estonia upon the acquisition of goods or receipt of services by a VAT registered customer, then the foreign person is obliged to register as a taxable person for VAT purposes as of the date on which the taxable supply was made. The VAT registration application must be submitted within three working days of the date on which the VAT registration obligation arises. A voluntary registration is also possible.

The registration obligation does not arise if all taxable supplies of the foreign taxable person are taxable with a zero rate VAT, unless it concerns intra-Community supplies of goods. Subsequently, the VAT registration obligation does not arise, eg, if a foreign taxable person effects all its supplies through a free zone, a customs warehouse or VAT warehouse in Estonia. The registration obligation also does not arise in case a taxable person established in a non-EU country 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.

The registration takes place with the Estonian Tax and Customs Board. The application forms KR and R2 have to be filled in and the signed forms must be sent to the following address:

*Põhja maksu- ja tollikeskus
Endla 8, Tallinn 15177
Estonia*

The Estonian tax authorities may also ask for proof that business activities are performed or will be performed. As a general rule, it is sufficient to submit the Extract of the Commercial Register with the signed registration forms KR and R2.

The application form (Vorm KR) can be downloaded at the following link:
http://www.emta.ee/public/vormid/maksuvormid/KMD_jm_kaibemaksu_vormid/2012/Vorm_KR_2012_taidetav.pdf.

The application form (Vorm R2) can be downloaded at the following link:
<http://www.emta.ee/index.php?id=1313>

The Estonian tax authorities provide the VAT number within three days if all the required documents have been submitted. A retroactive registration is also possible but only if the date of obligatory registration has been passed and from the date on which the registration should have taken place according to the Estonian VAT Act.

1.3 VAT grouping

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

- taxable persons; and
- a parent company and its subsidiaries within the meaning of the Estonian 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 a franchise agreement.

VAT grouping is voluntary, which means that a taxable person may choose whether or not to register a VAT group or whether or not to join a VAT group if all the conditions of the VAT grouping are fulfilled.

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

A foreign company (ie, a company not established in Estonia) may also be included in the VAT group if it has been registered as an Estonian taxable person beforehand and meets the above requirements of the VAT grouping (ie, the company belongs to the same group of companies which are economically, financially and organisationally related). An Estonian fixed establishment of a foreign company can also be included in the VAT group.

Transactions made between the VAT group members are not considered as supplies, thus, no invoices need to be issued. Members of the VAT group must submit VAT returns and European Sales Listings together (ie, single reporting) 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 VAT group must appoint one member as its representative to communicate with the tax authorities. The personal VAT registration number granted to each member (except the VAT number of the representative of the VAT group) will be suspended until the VAT group is deregistered.

1.4 Fiscal representative

A taxable person of another EU country may appoint a fiscal representative, but it is not obligatory. A taxable person of a non-EU country, which has no fixed establishment in Estonia, must appoint a fiscal representative when registering for VAT. A fiscal representative may not be used when a non-EU taxable person provides electronically supplied services. A fiscal representative needs to be licenced by the tax authorities. The fiscal representative can be a legal person established in Estonia or a branch of a foreign legal person entered in the Estonian Commercial Register. A fiscal representative must be solvent and have an impeccable reputation and must not have any tax arrears.

All rights and obligations of the foreign taxable person extend to the fiscal representative. The fiscal 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, ie, is jointly and severally liable for all the tax liabilities of the foreign taxable person it represents. As a general rule, the fiscal representative must set a bank guarantee. The tax authorities determine the amount of the guarantee.

2. Simplification Measures

2.1 Consignment and call-off stock

In general, if stocks are brought from other EU countries or imported into Estonia for customers who are registered for VAT in Estonia, then the non-established supplier does not need to register in Estonia. The Estonian customer then pays VAT on the acquisition at the moment when the ownership is transferred. There is no time limit in relation to the above 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 an EU Member State A sells goods to a taxable person established in Member State B (middleman 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;
- middleman B is not registered for VAT in Member State C; and
- the second customer C in the triangular transaction pays VAT on the acquisition of goods.

Therefore, where Estonia is the country of destination of the goods, the wording of Estonian legislation does not prevent the application of the triangulation rules if middleman B is VAT registered in the country of dispatch. It is, however, not possible to apply the triangulation rules if middleman B is VAT registered in Estonia.

There are no other simplification rules applicable to chain supplies.

2.3 Transfer of business

A transfer of a business or a part thereof within the meaning of the Estonian Law of Obligations Act is not subject to VAT (refer to paragraph 4, section 2, subsection 1 of the Estonian VAT Act). This does not apply in case of a transfer of a single asset.

3. Installation Supplies

Under the Estonian VAT Act, the supply with installation means that the goods are transferred to a particular EU 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.

Local reverse charge may be applicable if the goods are installed or assembled in Estonia by a taxable person from another Member State if the cost of installation or assembly exceeds 5% of the taxable value of the transaction (see under 9.2). If the cost of installation or assembly does not exceed 5% of the taxable value of the transaction, the transaction is treated as an ordinary supply of goods. The reverse charge on the intra-Community acquisition applies if the goods are delivered from another EU Member State.

4. Distance Sales Threshold

The distance sales threshold is EUR 35,000.

However, if a foreign company wants to register for VAT in Estonia before the distance selling threshold is exceeded, it has to provide a letter of the tax authorities of the country where it is established that the tax authorities are aware that this company registers for VAT in Estonia and charges Estonian VAT on its distance sales. The company must apply Estonian VAT on the sales after it has been registered for VAT in Estonia.

5. Acquisition Threshold

If the taxable value of the goods, except excise good and new means of transport, acquired by a non-taxable person by way of intra-Community acquisition exceed EUR 10,000 as from the beginning of a calendar year, the obligation to register as a taxable person with limited liability shall arise as of the

date on which that threshold was exceeded. If a foreign person engaged in business who has no permanent establishment in Estonia engages in intra-Community acquisition of goods in Estonia, the obligation to register as a taxable person with limited liability arises as of the date of the intra-Community acquisition of the goods. This provision does not apply to taxable persons and natural persons who are not engaged in business.

6. Effective Use and Enjoyment

Estonia did not implement any effective use and enjoyment rules based on Article 59a of the EU VAT Directive.

7. Bad Debt Relief

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

8. Special Rules

8.1 Postponed accounting on import

The VAT Act allows the application of the postponed accounting on import of goods. In order to apply for the postponed accounting, the taxable person must submit an 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 twelve consecutive months;
- in the previous twelve months, at least half of the supplies must have been subject to a zero rate;
- the taxable person has been submitting tax returns electronically for at least twelve months;
- the taxable person does not have any outstanding (unfiled) tax returns; and
- the taxable person did not have any tax arrears in the previous twelve months.

8.2 VAT warehouse

Estonia has implemented a VAT warehouse regime under which VAT is not applicable to the supply of goods placed in a VAT warehouse. The location of the warehouse must be approved by the tax authority. The VAT warehouse regime can only be applied in case of the supply of certain unfinished products/bulk goods stipulated in Annex V of the EU VAT Directive 2006/112 (eg, goods that need further processing in order to be sold for final consumption). These goods include, eg, cocoa beans, mineral products, certain chemical products, unrefined sugar, tapioca, etc. Participants in transactions within the VAT warehouse need not be established or registered for VAT purposes in Estonia.

The supply of goods which are brought to or are located in the VAT warehouse are zero rated.

VAT becomes due when the goods are released from the warehouse. The owner of the goods who initiates the release is held liable for the VAT. The VAT applicable on the sale of the goods has to be paid either by the supplier or by the customer if a domestic reverse charge applies (ie, the customer is registered for VAT in Estonia and the non-established supplier is not registered for VAT in Estonia (see also section 9.2).

8.3 Bonded (customs) warehouse

It is possible to put the goods in a bonded warehouse.

If the goods coming from a third country are directly placed under a bonded warehouse regime, no customs duties and VAT become due. When the goods are released from the warehouse for free circulation, duties and VAT become due. The owner of the goods who declares the goods into free circulation becomes responsible for the payment of the VAT.

The release of goods from a bonded warehouse regime does not constitute an importation if the goods are subsequently placed under another customs regime.

The sale of goods, while still in bond, is not subject to Estonian VAT. Evidence that the sales took place in the bonded warehouse should be kept in the files (ie, list of the transactions from the warehouse keeper, customs documents, agreements, invoices, etc.).

In addition, it is possible to place the goods in a free zone. If the goods coming from a third country are directly placed in the free zone, no customs duties and VAT become due. When the goods are released from the free zone for free circulation, duties and VAT become due. It is also possible to place the goods in the free zone and sell without VAT if the goods are exported within two months.

9. Reverse Charge

9.1 Reverse charge mechanism - B2B services

Cross-border services supplied to an Estonian VAT registered person that is engaged in an economic activity, will be, as a general rule, subject to a reverse charge. In addition, services supplied to Estonian non-business legal entities that are or should be VAT registered are subject to a reverse charge.

9.2 Local reverse charge mechanism - non-resident suppliers

All taxable persons established in Estonia are obliged to calculate VAT under the reverse charge mechanism for the goods or services supplied by a non-resident supplier (ie, a taxable person not having a VAT number and a fixed establishment in Estonia). The reverse charge even applies if the customer is a legal entity, although not a taxable person (ie, not performing business activities), if this entity is registered for VAT in Estonia. The reverse charge applies to all supplies of goods and services which are subject to VAT in Estonia.

On the invoice, reference to the application of the reverse charge is obligatory.

9.3 Reverse charge mechanism - supply of natural gas and electricity

The supply of natural gas, electricity, heating or cooling energy to a distributor in Estonia is subject to the 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 Act, 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 insignificant.

9.4 Reverse charge mechanism - specific domestic rules

Estonia has domestic reverse charge rules that apply to the supply of immovable property or its parts, metal scrap and gold. These reverse charges apply only if both the seller and the buyer are registered for VAT in Estonia.

10. VAT Rates and Exemptions

10.1 Standard rate

The standard VAT rate in Estonia is 20%.

10.2 Reduced rate

The reduced rate of 9% is applicable to the supply of:

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

10.3 Exemptions with right to deduction (zero rate)

The zero rate is applicable to the:

- export of goods;
- intra-Community supply of goods;
- supply of seagoing vessels navigating in international waters, except pleasure craft used for purposes other than business;
- supply of aircraft operating mostly on international routes;
- 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 EU institutions;
- supply of goods placed in free zones or free warehouses;
- supply of excise goods placed in excise warehouses;
- supply of certain goods listed in Annex V of the Council Directive 2006/112/EC placed in a VAT warehouse; and
- supply of goods that are transferred in the canteen, cafeteria or mess of an international military headquarters.

10.4 Exemptions without right to deduction

VAT is not applied on the supply of certain healthcare activities, activities related to social responsibilities, insurance and financial services.

11. Recovery of Input VAT

11.1 Non-recoverable input VAT

Input VAT cannot 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 (with an exception of accommodation provided during business trips); or
- not related to a taxable person's taxable business.

11.2 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 an application to the tax authority. Generally, the excess VAT will be refunded by the tax authorities within thirty days of the receipt of an application. This period may be extended for up to ninety days if the tax authorities have justified reasons to check further the circumstances of the VAT refund application. In case of a refund exceeding EUR 640,000, a written decision must be made and signed by the head of the regional unit of the tax authorities.

11.3 Capital goods - adjustment periods

Immovable property and goods and services thereto – ten calendar years.

Fixed assets and goods and services thereto – five calendar years.

The period of time between the date of acquisition of the fixed assets and the last day of the calendar year of the acquisition is deemed to be the first calendar year. The adjustment period also applies to services obtained in relation to fixed assets if the services increase the value of the fixed assets in the books of the taxable person.

11.4 VAT refund for foreigners

11.4.1 VAT refund to non-resident EU taxable persons

The application must be submitted electronically to the Estonian tax authority through the tax authority of the country of location of the taxable person. The annual minimum limit is EUR 50. The interim minimum limit is EUR 400. The minimum period for making a claim is three months. The maximum period for making a claim is one calendar year. The deadline for submitting the application is no later than 30 September of the calendar year following the period of refund. It is not possible to submit the application after the deadline.

The application must contain general data (applicant's name, address, e-mail, bank account, VAT number) and the description of the applicant's field of operation for which goods or services were bought in Estonia. The applicant must also confirm that he did not have any taxable supplies in Estonia (except zero rated supplies and supplies subject to a reverse charge). Original invoices or copies of invoices are not required. Electronic copies of more substantial invoices (in the case of fuel if the amount without VAT is at least EUR 250 and in other cases if the amount without VAT is at least EUR 1,000) must be submitted.

The time limit for making decisions is four months or, upon the request of additional information, six to eight months of the receipt of the application. If the application is satisfying, VAT shall be refunded no later than within ten working days as of notifying the taxable person of the decision. An appeal must be filed within thirty days as of the date of notification or of delivery of the administrative act.

General rules apply to non-refundable VAT (please see section 11.1).

More information could be found: <http://www.emta.ee/index.php?id=29835&highlight=VAT,refund>

11.4.2 VAT refund to non-resident non-EU taxable persons

Reciprocity is not required.

The application must be submitted by the non EU taxable person directly to the Northern Tax and Customs Centre in Estonia.

Webpage: <http://www.emta.ee/>

The application must be submitted on paper and be signed by a natural person, a head of a legal entity or by an authorized representative, and it must contain the number of the bank account and a note as to where and in whose name the VAT should be refunded.

The application form could be downloaded:

http://www.emta.ee/public/vormid/avaldused/Vorm_KMT_2013_taidetav.pdf.

The annual minimum limit is EUR 320. Non-resident non-EU taxable persons can submit the application only once per calendar year. The minimum and maximum period for submitting an application is one calendar year. The deadline for submitting the application is no later than 30 September of the calendar year following the period of refund. It is not possible to submit the application after the deadline.

The application must contain original invoices or documents confirming the VAT payment on import (these will be marked and sent back to applicant). In addition, a certificate from the tax authorities that the applicant is liable to pay VAT in the country of habitual residence must be attached to the application.

The time limit for making decisions is six months. If the application is satisfying, VAT shall be refunded no later than within ten working days as of notifying the taxable person of the decision. An appeal must be filed within thirty days as of the date of notification of or delivery of the administrative act.

General rules apply to non-refundable VAT (see section 11.1).

More information could be found: <http://www.emta.ee/index.php?id=27426>.

12. Invoicing

12.1 Invoice content

A VAT invoice should contain the following data:

- the sequential number;
- the date the invoice is issued;
- full name and address of the supplier and his VAT registration number;
- full name and address of the customer of the goods or services;
- the VAT number of the customer of the goods or services if he is liable for the payment of VAT;
- name or description of the goods or services;
- quantity of the goods or extent of the services;

- 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;
- price of the goods or services exclusive of VAT and any discounts, if these are not included in the price;
- taxable amount broken down by different VAT rates together with the applicable VAT rates or the amount of supply exempt from tax;
- reference to the relevant section of VAT Act or Directive in case of 0 rate VAT (except for export);
- reference to the reverse charge if the reverse charge applies;
- relevant reference if margin scheme for tour operator, second-hand goods, works of art or collector's items and antiques applies;
- details of a tax representative, if any;
- reference to the self-billing if invoice has been made under self-billing rules; and
- amount of VAT payable in EUR.

12.2 Time limits

An invoice should be issued within seven calendar days (fifteen days in case of intra-Community supply and supplies to non-Estonian taxable persons) as of the date on which the goods have been dispatched or made available to the customer or the services have been provided. Electricity, heating and water suppliers invoice their clients in general on a monthly basis.

12.3 Currency

Invoices are accepted in all currencies but the amount of VAT must be indicated in euros.

12.4 Conversion and exchange rate

Where information required for the calculation of the amount of VAT on the import of goods is expressed in a foreign currency, the exchange rate must be determined in accordance with the provisions of the Community Customs Code governing the calculation of value for customs purposes. Where information required for the calculation of the amount of VAT on a transaction other than an import transaction is expressed in a foreign currency, the exchange rate of the Euro as determined by the European Central Bank on the day when the supply of the goods or services or intra-Community acquisition takes place, applies.

12.5 Self-billing

The Estonian VAT Act allows that an invoice is issued by the customer on the condition that, before the supply is effected, there is a written agreement between the two parties that an invoice is issued by the customer and the supplier accepts it. An agreement must contain the procedure for the acceptance of invoices by a supplier.

12.6 Storage of invoices

The minimum term for the storage of invoices is seven years. Invoices could be stored anywhere, if immediate availability is guaranteed. If invoices are stored in a country other than Estonia, the tax authorities must be notified. There are no specific rules on storage or conversion of the invoices. There are no requirements related to the medium of storage (they could be stored in paper or in electronic form). The invoices do not have to be stored in the original form.

12.7 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 as paper invoices. The receiver of the invoice must agree that the invoice is issued electronically. Usually, a written agreement between the parties provides for this.

13. VAT Compliance

13.1 VAT return period

VAT returns must be filed monthly. The first 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, then it is allowed to declare the supplies over the first period together with the supplies over the following period and submit one return for both periods.

13.2 Filing of the VAT return and payment

VAT returns should be submitted to the tax authority and VAT must be paid by the twentieth day of the month following the period of taxation. If the due date falls on a weekend or on a public holiday, it is extended till the next working day.

VAT returns must be submitted electronically, if the person has been a taxable person for at least twelve months. The VAT returns may be submitted on paper upon approval of the tax authorities. The VAT return is filed as a form KMD.

The form of the VAT return (Vorm KMD) can be downloaded at the following link:
<http://www.emta.ee/index.php?id=30302>

13.3 European Sales Listing

The deadline for the submission of the monthly European sales listing is the twentieth date of the month following the month of supply.

13.4 National recapitulative statement

There are no national recapitulative statements in Estonia.

13.5 Tax assessment period

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

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 the time due may result in a penalty of up to EUR 13,000.

14.2 Penalties for not paying VAT in time to the VAT authorities

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 effective rate of interest payable is $0.06 \cdot (1 + 21/79)$ % per day (from 2015 $0.06 \cdot (1 + 20/80)$ % 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 a late interest fee which is 0.06% per day.

15. Intrastat

Intrastat reports have to be submitted on a monthly basis to the Estonian Statistics Board.

15.1 Intrastat threshold

For 2013, the annual threshold for Intrastat reporting is EUR 200,000 for arrivals and EUR 130,000 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 in kilograms;
- the invoice value of the goods;
- currency;
- statistical value;
- means of transport; and
- delivery terms and place.