

Exempt supply of the goods and services of a social nature

Value added tax shall not be imposed on the supply of the following goods and services of a social nature:

1) **universal postal services** within the meaning of the Postal Act and payment of state pensions, benefits, support and compensation by means of post in accordance with the procedure laid down in the State Pension Insurance Act and the Work Ability Allowance Act.

According to the Postal Act, universal postal services mean the continued and high quality provision of postal services provided for in subsection 5 (2) of the Postal Act at an affordable price throughout the whole territory of the Republic of Estonia on the bases and pursuant to the procedure provided by legislation.

Universal postal services include the following domestic and cross-border postal services:

1. the forwarding of items of correspondence weighing up to 2 kilograms as ordinary, registered and insured items;
2. the forwarding of postal parcels weighing up to 20 kilograms as registered and insured items.

Universal postal services do not include the forwarding of postal items as bulk items.

A universal postal service provider is a person to whom a licence for the provision of universal postal services has been issued – it means, only a person with the correspondent license can provide postal services which are exempt from VAT.

The Work Ability Allowance Act has created a new type of allowance – work ability allowance – and ended the determination of percentages of loss of capacity for work and pension for incapacity for work on the basis of the State Pension Insurance Act. Therefore, with effect from 1 January 2022, the VAT Act was supplemented in such a way that the payment of state pensions, benefits, support and compensation by means of post in accordance with both the State Pension Insurance Act and the Work Ability Allowance Act is exempt from VAT.

2) **health services** within the meaning of the Health Service Organisation Act and the supply of an organ or tissue of human origin, human blood or blood product made from human blood and breast milk, as specified in the list approved by a regulation of the Minister of Social Affairs.

According to the Health Services Organisation Act, health services are the activities of health care professionals for the prevention, diagnosis or treatment of diseases, injuries or intoxication in order to

reduce the malaise of persons, prevent the deterioration of their state of health or development of the diseases, and restore their health. The Health Board must issue an activity licence for the provision of health services.

Health care professionals are doctors, dentists, nurses and midwives if they are registered with the Health Board. A health care professional may provide health services within the acquired profession or speciality based on which they have been registered in the health administration information system.

Where a person provides treatment and has been registered in the health administration information system, the following persons are equalised with a health care professional:

1. physiotherapist,
2. clinical psychologist
3. speech therapist.

Therefore, for the purposes of applying the tax exemption, it is important that the service provided is a health service, a licence has been issued for the provision of the service and that the service is provided by a health care professional, including a physiotherapist, clinical psychologist and speech therapist treated as a health care professional.

Chocolate therapy, coffee therapy, different massages (excl. therapy massage, prescribed by a doctor) are not acknowledged methods of rehabilitation and the qualification of the rehabilitation specialist is not necessary for the provision of such services. Thus, the implementation of such therapy methods is the provision of the taxable services, even the provider of the service has the qualification of the rehabilitation specialist.

2¹) service provided by dental technicians in their professional activities and **dental prostheses** transferred by dentists or dental technicians.

According to clause 132(1)(e) of the EU VAT Directive, the supply of services by dental technicians in their professional capacity and the supply of dental prostheses by dentists and dental technicians shall be exempt from VAT.

3) **services provided by a non-profit association** to its members free of charge or for a membership fee, and services provided by a non-profit association or foundation to natural persons relating to the use of sports facilities or sports equipment;

Service provided by a non-profit association is exempt from VAT only if the service is provided free of charge or for a membership fee. If a non-profit association organises events for its members for a consideration, such transaction is treated as taxable supply, even the bargain price was applied.

4) **social services** specified in Articles 8 (since 01.05.2018), 17, 20, 23, 26, 27 (since 01.05.2018), 30

(since 01.05.2018), 33 (since 01.05.2018), 41, 44 (since 01.05.2018), 45⁵, 45¹⁵, 56, 87, 91, 94, 97, 100 and 130¹ and social services financed out of the state or local government budget specified in Article 45¹ of the Social Welfare Act (SWA).

The definitions and provision of social services are regulated in SWA. According to clause 4 of subsection 1 of § 16 of the VAT Act, the social services exempt from VAT are:

the provision of emergency social assistance, for example, making available of clothing, food and temporary accommodation to person in a socially helpless situation (Article 8 of SWA – since 01.05.2018), domestic service (Article 17 of SWA), general care service provided outside the home (Article 20 of SWA), support person service (Article 23 of SWA), curatorship of adults (Article 26 of SWA), personal assistant service (Article 27 of SWA – since 01.05.2018), shelter service (Article 30 – since 01.05.2018), safe house service of adults (Article 33 – since 01.05.2018), provision of dwelling (Article 41), debt counselling service (Article 44 – since 01.05.2018), alternative care service (Article 45⁵ of SWA), continued care service (Article 45¹⁵ of SWA), social rehabilitation service (Article 56 of SWA), everyday life support service (Article 87 of SWA), employment support service (Article 91 of SWA), supported living service (Article 94 of SWA), community living service (Article 97 of SWA), 24-hour special care service (Article 100 of SWA), closed child care institution service (Article 130¹ of SWA).

Childcare service (Article 45¹ of SWA) is exempt from VAT, if it is financed out of the state or local government budget.

The content of social services exempt from tax provided for in clause 4 of subsection 1 of § 16 of the VAT Act must be interpreted on the basis of the provisions of the relevant sections of the Social Welfare Act. The services specified in the specific provisions of the Social Welfare Act listed in clause 4 of subsection 1 of § 16 of the VAT Act are exempt from tax.

The fact that the service is a so-called project-based service has no impact on the taxation of the service as such. If a service is provided as part of a project, the taxation depends on whether the service is exempt from tax pursuant to § 16 of the VAT Act or the service is taxable.

5) services relating to shelters for the protection of children and young persons;

6) pre-school, basic, vocational, secondary and higher education, including learning materials transferred by the education service provider to the recipient of the services, private tuition relating to general education and other training services, except other training services provided for business purposes.

Only training services of a social nature are exempt from VAT – for example, general education and private tuition relating to general education, but not training services provided in the course of business activities. For the purposes of this provision, general education services cover pre-school, basic, vocational, secondary and higher education as formal education. Formal education is always supply

exempt from tax – whether the training is provided by a public, municipal or private school.

Retraining and continuing education is covered by the term “other training services”. Other training for non-business purposes is supply exempt from tax without the right to voluntary taxation. Training services provided for business purposes, if they are not a part of general education, are taxable with the standard VAT rate.

WHEN TRAINING SERVICES ARE PROVIDED FOR BUSINESS PURPOSES

When training service is provided by an economic operator (company, self-employed person), it is always for business purposes.

When training service is provided by a non-profit association or foundation, two main criteria must be considered:

- ✓ whether the training provider seeks to make a profit from providing the training services;
- ✓ whether the training provider competes with other training providers offering similar services, so that non-taxation of the training may distort competition.

Each specific training should be considered separately from this point of view. There is no general rule which training provided by a non-profit association or foundation, which is not formal education, is exempt from tax and which is taxable. Attention needs to be paid to the competitive aspect – if similar training is provided by economic operators registered for VAT purposes (companies and self-employed persons), it must be regarded as training provided for business purposes by all providers (including non-profit associations or foundations). Pursuant to point (b) of Article 134 of the VAT Directive 2006/112/EC of the European Union, a Member State shall not grant exemption where the purpose is to obtain additional income for the body in question through transactions which are in direct competition with those of commercial enterprises subject to VAT.

If the training is provided by a non-profit association or foundation that does not seek profit from this training and the training is so specific that there is no real competition from other providers offering similar training, then we can say that the training is offered for non-business purposes and the supply is exempt from tax.

If a state, rural municipality or city authority provides training for business purposes, a taxable supply arises.

7) **transportation of sick, injured or disabled persons** in vehicles which are specially designed for such purpose and which correspond to the requirements established on the basis of the Traffic Act.

Transportation of sick, injured or disabled persons in vehicles which are specially designed for such purpose and which correspond to the requirements established on the basis of the Traffic Act is a service exempt from VAT. This provision imposes exemption to so-called taxi service for disabled persons – but only if the service is provided with specially designed vehicles.

8) **service provided by an independent association of persons to their members** provided that the following conditions are met: the service is directly necessary for the main activity of the member, which is exempt from tax or is not subject to value added tax; the fee paid for the service does not exceed the costs incurred upon the provision of the service and the tax exemption of the service does not affect competition significantly.

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