MAKSU- JA TOLLIAMET

Calculation and refund of VAT

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Calculation and refund of VAT

Legislation

§§ 1, 3, 29–33 and 38 of the **Value Added Tax Act** (VAT Act)

Regulation No 39 of the Minister of Finance of 30 March 2004 "The procedure for reporting recalculation of partially deducted input value added tax in a value added tax return and the procedure for the adjustment of input value added tax on fixed assets acquired and the goods acquired or services received for the fixed assets"

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Taxable transactions and acts

SUBJECT TO VAT

The following is subject to VAT (subsection 1 of § 1 of VAT Act):

1. supply created in Estonia, except supply which is exempt from tax;
2. import of goods into Estonia (§ 6 of the VAT Act), except imports exempt from tax (§ 17);
3. provision of service the place of supply of which is not Estonia (subsections 4 and 5 of § 10 and subsection 4 of § 10[1]) except supply exempt from tax;
4. supply of goods or services specified in subsection 3 of § 16 of the VAT Act if the person liable to VAT has added VAT to the taxable value of such goods or services;
   A taxable person may add VAT to certain supplies exempt from tax on the basis of his or her choice if he has previously informed the tax authority of his wish (e.g. the supply from immovables (except dwelling); financial services, except where the service is provided to a taxable person (limited) in another Member State, etc.).
5. intra-Community acquisitions of goods (§ 8 of the VAT Act), except intra-Community acquisitions of goods which are exempt from tax (§ 18).

A person liable to VAT must calculate VAT on all the transactions and acts above and, in the case of the supply specified in clause 1 of subsection 1 of § 1 of the VAT Act, the person must calculate VAT on (section 4 of § 3 of the VAT Act):

1. supply subject to taxation;

2. the services received from a foreign person engaged in business who is not registered as a taxable person in Estonia and who has no permanent business establishment in Estonia through which the person engages in business in Estonia;
3. the acquisition of goods to be installed or assembled in Estonia from a person of another Member State engaged in business who is not registered as a taxable person in Estonia and who has no permanent business establishment in Estonia through which the person engages in business in Estonia;
4. the acquisition of goods as the acquirer in a triangular transaction;
5. the acquisition of goods not listed in clauses 3 and 4 of this list from a foreign person engaged in business who is not registered as a taxable person in Estonia and who has no permanent business establishment in Estonia through which the person engages in business in Estonia;
6. the acquisition of goods listed in subsection 2 of § 41^1 of the VAT Act from another taxable person.
   - Clauses 2 and 5 set out the so-called general reverse VAT liability, according to which a taxable person is also required to pay VAT on the acquisition of goods and services not specified separately from a foreign person engaged in business who is not registered as a taxable person in Estonia and who does not have a permanent establishment in Estonia but who generates taxable supply in Estonia with regard to the transaction. A foreign country means both another Member State of the EU and a non-EU country. The reverse VAT liability arises for a taxable person only when he receives goods or services from a foreign person engaged in business (including a self-employed person), but not, for example, a foreign private person who is not a trader.
   - Due to this general reverse VAT liability, a foreign taxable person is released from the obligation to register as a taxable person in Estonia if he or she transfers goods or provides services to a person registered as a taxable person in Estonia. This provision applies, for example, in the case of the receipt of services related to immovable property located in Estonia from a foreign taxable person.
   - The purpose of the provision is to promote the free movement of goods and the provision of services and to facilitate business between Member States by reducing transactions in which a foreign taxable person would be subject to registration in Estonia and at the same time ensuring that VAT is still paid in Estonia if taxable supply arises here.

A foreign taxable person is not deemed to be an Estonian taxable person due to its permanent business establishment located in Estonia and engaged in business if the foreign person does not participate in a transaction or act subject to taxation through its permanent business establishment located in Estonia (subsection 3^1 of § 3 of the VAT Act).

Example

A French company has a branch registered in Estonia but it is not engaged in business. Therefore, the French company does not have a permanent establishment in Estonia. Consequently, if an Estonian taxable person transfers goods to that company or supplies taxable services according to the general rule, he has the right to issue an invoice directly to the company with a fixed establishment in France at a rate of 0% and does not issue an invoice to the branch located in Estonia because it does not participate in the supply of goods or the provision of services.

A taxable person with limited liability must pay VAT on the acts specified in clauses 2 and 5 of subsection 1 of § 1 of the VAT Act (import of goods into Estonia and intra-Community acquisition of goods, except for tax-exempt import and tax-exempt intra-Community acquisition) and on the acts specified in clauses 2–5 of the list set out in subsection 4 of § 3 of the VAT Act (section 5 of § 3 of the VAT Act).

A taxable person with limited liability who is registered on the basis of section 1 of § 21 of the VAT Act upon receiving services specified in subsection 5 of § 10 of the Act from a foreign person engaged in business is not required to pay VAT on the intra-Community acquisition of goods, except for the intra-Community acquisition of excise goods or new means of transport, if the taxable value of the goods acquired during the calendar year does not exceed 10 000 euros.

In addition to the above, under subsection 6 of § 3 of the VAT Act, VAT must also be paid by:

1. a debtor within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code;
2. a person not registered as a taxable person, on transactions concerning which the person has issued an invoice or other sales document in which the amount of value added tax is indicated; VAT must also be paid by a person who is not registered as a taxable person and who has incorrectly entered the VAT on the sales invoice issued. This means that if in addition to the price of the goods a person has demanded VAT from a purchaser on the basis of an invoice even though he or she is not subject to VAT, the VAT must be paid to the state.
3. a person not registered as a taxable person or taxable person with limited liability, except the persons specified in subsections 1 and 2 of § 39 of the VAT Act who acquires a new means of transport from another Member State;
   Similarly to other VAT exemptions and refunds applicable to representations, bodies and institutions provided for in § 39 of the VAT Act, the natural persons specified in these provisions (diplomats, consular officers, representatives of a special mission or international organisation and persons belonging to the armed forces of NATO) are also exempt from payment of VAT upon the acquisition of a new means of transport from another Member State. In other words, they have the right to purchase a new means of transport tax-free.
4. a person not registered as a taxable person or taxable person with limited liability who acquires alcohol, tobacco product or fuel, except for natural gas, within the meaning of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act (excise goods) from another Member State, except for a natural person who acquires excise goods for personal use;
5. the owner of the goods upon the termination thereby of the tax warehousing (§ 44^1) of the goods without transfer of the goods. This provision does not apply in cases where a person was the owner of the goods already at the time the goods were placed in the tax warehouse, except if the goods were stored at a tax warehouse following the domestic supply, import or intra-Community acquisition of the goods, and the goods were not transferred during the time they were stored at the tax warehouse;
   The owner of the goods will not be liable to tax on the removal of his goods from the tax warehouse if he himself also placed those goods in a tax warehouse and the goods were not

transferred in the tax warehouse, unless the person was able to benefit from exemption when the goods were placed in a tax warehouse immediately following the import, domestic supply or intra-Community acquisition of the goods. For example, such tax liability does not arise if a person places a certain quantity of grain in a tax warehouse, sells it at a zero rate in a tax warehouse, but withdraws the untransferred part of the grain from the tax warehouse.

6. the owner of excise goods under excise duty suspension arrangement upon taking thereby the excise goods out of the excise warehouse without transfer of the excise goods, except upon transporting the excise goods from one excise warehouse to another. This provision does not apply in cases where a person was the owner of the excise goods already at the time the excise goods were placed in the excise warehouse and the excise goods were not transferred in the excise warehouse. If the excise goods under excise duty suspension arrangement taken out of the excise warehouse have also been placed in a tax warehouse, clause 5 of this list will apply.

Similarly to tax warehouses, intra-excise warehouse transactions with goods under excise duty suspension arrangement are taxed at the rate of 0%. A tax liability arises when goods under excise suspension arrangement are taken out of an excise warehouse, unless the person was also the owner of the goods when the goods were placed in the excise warehouse and the goods have not been transferred in the excise warehouse. Therefore, when excise goods under excise suspension arrangement are taken out of an excise warehouse without transferring them, the owner of the goods will only become liable to VAT if he has acquired the goods in an excise warehouse subject to a 0% VAT rate. In other cases, excise goods under excise suspension arrangement are already subject to VAT in an excise warehouse because VAT must be calculated and paid according to the general rules when goods are placed in an excise warehouse. Thus, the removal of goods under excise suspension arrangement from an excise warehouse by the owner is not subject to VAT if the person was also the owner of the excise goods when the goods were placed in the excise warehouse and the goods have not been transferred while in the excise warehouse. Similarly, when excise goods under excise suspension arrangement are taken out of an excise warehouse without a transfer, the obligation to calculate and pay VAT does not arise if the owner of the excise goods takes the excise goods out of the excise warehouse without transferring them, but takes them immediately to another excise warehouse. In the above cases, taking the goods out of the excise warehouse is not supply for the purposes of the VAT Act.

Since VAT is calculated differently when goods are taken to an excise warehouse or a tax warehouse, the provisions on tax warehousing must be taken as a basis in a situation where goods under excise suspension arrangement taken out of an excise warehouse have also been placed in a tax warehouse.

Upon termination of storage in the cases specified in points 5 and 6 of this list, the taxable person declares VAT in the VAT return (subsection 1 and 2 of § 29 of the VAT Act). In this case, VAT is calculated and paid in accordance with the reverse charge procedure in lines 1 and 4 of form KMD and, in the case of goods used for taxable supply, the VAT due is also deducted as input tax in line 5 of form KMD, which means that no real tax liability arises from that transaction.

If storage is terminated by a person who is not registered as a taxable person, the person submits information on the goods and pays the VAT at the latest on the day of the termination of the tax

warehousing of the goods or the day of taking the goods out of the excise warehouse in accordance with **Regulation No 26 of the Minister of Finance of 15 June 2022** (subsections 5^1 and 8 of § 38 of the VAT Act).

Upon termination of storage, in the cases referred to in points 5 and 6 of this list, the taxable supply amount is the acquisition cost or cost price of the goods or the usual value of the goods if it is lower than the acquisition cost or cost price. Only in justified cases, the taxable value of goods may be lower than the value of the goods entered in the warehouse stock records at the time of placing such goods in the tax warehouse or excise warehouse (subsection 13 of § 12 of the VAT Act).

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Calculated value added tax

The calculated value added tax is the VAT calculated on the taxable value of the transactions and acts specified in subsection 4 and in clauses 5 and 6 of subsection 6 of § 3 of the VAT Act carried out or performed by a taxable person (see also the handbook section **"Taxable transactions and acts"**). VAT paid pursuant to customs legislation is not included in the calculated value added tax (subsection 2 of § 29 of the VAT Act).

The amount of VAT is calculated on the basis of the tax rate in force on the date on which the supply is generated as determined in § 11 of the VAT Act. If the data necessary for the calculation of VAT is expressed in foreign currency, the exchange rate of euro as determined by the European Central Bank on the day determined in accordance with § 11 of the VAT Act is applied, except in the case of imports of goods. Upon import, the exchange rate is determined in accordance with the provisions of the Union Customs Code governing the calculation of the customs value (subsection 13 of § 29 of the VAT Act).

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Adjustment of VAT

Upon cancellation of an invoice for goods or services or submission of a credit invoice because of reduction in the price of the goods or services after submission of a VAT return for the taxable period in which the supply of the goods or services was created, both the seller and the purchaser must indicate the corresponding amendments in the VAT return submitted concerning the taxable period during which the invoice was cancelled or the credit invoice was submitted. A credit invoice may only be submitted with regard to a specific invoice referred to in the credit invoice. The provision shall not be applied if the credit invoice has been submitted due to a failure to pay for goods or services partially or in full (subsection 7 of § 29 of the VAT Act).

Therefore, this provision of the VAT Act is applied if the circumstances of the transaction change — for example, the transaction is cancelled or the price of the transaction is changed and, as a result, a credit invoice is issued. In this case, the supply and the amount of VAT due are adjusted in the VAT return for the tax period in which the credit invoice is submitted and not in the previous one.

If **a taxable person has made an error in the completion of a VAT return** and therefore has to amend the data in the VAT return submitted in respect of the previous month, he or she must make corrections to the VAT return previously submitted in accordance with subsection 5 of § 27 of the VAT Act and submit a new VAT return with corrected data for the earlier period. That provision, therefore, applies to errors made in the VAT return — for example, supply has not been declared, supply has been declared at the wrong tax rate, taxable supply has been declared incorrectly as supply exempt from tax, etc. In such a case, there is no amendment or cancellation of the transaction, since the circumstances of the transaction remain the same — the taxable person must adjust the invoices of previous periods only for VAT purposes.

If **a seller receives money from a purchaser but the goods are not transferred or the services are not provided**, the seller is permitted to cancel the calculation of value added tax on such goods or services if the seller refunds the amount to the purchaser (subsection 9 of § 29 if the VAT Act). Therefore, the transaction need not be declared in the VAT return if the transaction for which the advance payment has been made has not taken place. The condition here is that the amount paid in advance is refunded to the purchaser before the date of submission of the VAT return. If the advance payment is refunded after the submission of a VAT return, the VAT recalculation must be made in accordance with either subsection 5 of § 27 or subsection 7 of § 29 of the VAT Act.

If **the supply of goods has been effected but the contract under which the ownership of the goods is to pass to the contractual user of the goods upon termination of the contract is cancelled** and the purchaser who is not registered as a taxable person returns the goods, the seller may adjust the amount of VAT payable for the taxable period in which the goods were returned by the amount of VAT refunded to the purchaser (subsection 8 of § 29 of the VAT Act).

Therefore, where goods are sold on the basis of a transaction which provides for the transfer of

ownership of the goods by payment of the last instalment, it is treated as a transfer of goods and the VAT liability arises on the sale price of the goods immediately upon delivery of the goods. If the goods are returned before the expiry of a contract, a credit invoice and a VAT recalculation may be made on the basis of the taxable value of the service actually provided. In this case, it has subsequently become apparent that it was not a sale of goods but a supply of services. In such a case, both the seller and the recipient of the service must make a recalculation of input VAT on the VAT return of the month in which the credit invoice was submitted.

In the case of the sale of goods subject to VAT refund or tax-free sale the seller may declare the sale of the goods as an export of goods subject to a zero rate only after he has received a receipt certified by the customs authorities or the Police and Border Guard Board certifying that the goods have been exported. If the sale of the goods has to be declared before the receipt is returned, the taxable person must initially declare the sale of the goods as domestic supply and later adjust the VAT return for the month in which the receipt was received, reducing the amount of the domestic supply and declaring the sale as a zero-rate taxable export in fields 3, 3.2, 3.2.1 of the KMD (subsection 6 of § 29 of the VAT Act).

Upon **deletion from the register** the taxable person must pay VAT on goods not yet transferred if the person has deducted the input VAT on such goods upon acquisition. The acquisition cost or, in the absence thereof, the cost price of the goods is the taxable value of the goods. The input VAT deducted upon acquisition of fixed assets not yet transferred must be adjusted pursuant to provisions of subsection 4 of § 32 of the VAT Act (subsection 10 of § 29 of the VAT Act). A taxable person is required to pay VAT on the acquisition cost of goods which have not been transferred at the time of deletion from the register, such as goods in stock acquired for the purposes of transfer, in respect of which input VAT has been deducted. The principles of recalculation of input VAT on fixed assets must be applied to fixed assets not yet transferred.

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Deduction of input value added tax

Input value added tax is (subsection 3 of § 29 of the VAT Act):

- VAT to be paid on goods or services which a taxable person acquires or receives from another taxable person;

- VAT paid or to be paid by a taxable person on imported goods;
- VAT calculated by a taxable person on the taxable value of services the place of supply of which is

- Estonia and which are received from a foreign person engaged in business who is not registered as a taxable person in Estonia;

- VAT calculated by a taxable person on the taxable value of goods acquired by way of intra-Community acquisition, goods installed or assembled which are acquired, goods acquired by way of a triangular transaction or other goods which are acquired and on which the taxable person is required to calculate VAT pursuant to the VAT Act.

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Right to deduct input VAT

A taxable person has the right to deduct from the VAT calculated on his taxable transactions or acts input VAT on goods or services used for the purposes of his taxable supply for the same taxable period. A taxable person also has the right to deduct input VAT for the same taxable period for transactions or acts treated as non-supply related to business as provided for in subsection 2 of § 4 of the VAT Act and for goods or services used for the purposes of business carried out in a foreign state, except for transactions treated as supply exempt from VAT. (Subsection 1 of § 29 of the VAT Act)

According to general rule, input VAT cannot be deducted from goods and services purchased for the purposes of supply exempt from tax. Exceptions are insurance services and financial operations, upon the provision of which to a third country person the input value added tax may be deducted (subsection 1 of § 29 of the VAT Act).

Under certain conditions, input VAT paid on goods acquired before registration as a taxable person can also be deducted. Deduction of input VAT is permitted if the goods were acquired for the purpose of transfer (goods in a warehouse) or for the production of the goods to be transferred (manufacturing material). In this case, input VAT is deducted during the period in which the relevant goods are transferred as taxable supplies. Therefore, input VAT paid on the acquisition of goods before registration as a taxable person cannot be deducted if the goods were transferred before being registered as a taxable person. (Subsection 5 of § 29 of the VAT Act)

The input VAT on services received before registration as a taxable person can be deducted on the basis of an amendment to the VAT Act which entered into force on 1 March 2014 in the month of providing those services as taxable supply (subsection 5^1 of § 29 of the VAT Act).

There is also a right to deduct input VAT later in the case of fixed assets. In the case of fixed assets acquired before registration as a taxable person, the taxable person has the right to deduct input VAT upon subsequent use of such fixed assets, taking into account the actual proportion of the use of the fixed assets for taxable supply during the period of adjustment of input tax. With regard to fixed assets for which input VAT has been deducted, the principles of adjustment of input VAT set out in subsection 4 of § 32 of the VAT Act must be followed, i.e. if fixed assets are partially used for the purposes of supply exempt from tax, the deducted input VAT must be adjusted (subsection 5^2 of § 29 of the VAT Act).

If the goods or services are used for transactions in respect of which there is a right to deduct input VAT (subsection 1 of § 29), but also for purposes not related to business, the input VAT on the goods or services used only for the purposes of taxable supply can be deducted.

If, in the accounts of a taxable person, it is not possible to separate the input VAT for those two activities, the procedure for deduction of input VAT must be determined by a decision of the head of the tax authority at the request of the taxable person, taking into account the actual use of the goods or services (subsection 4 of § 29 of the VAT Act).

If a taxable person has deducted input VAT in whole or in part because, for example, self-supply was not known in advance, the subsequent use of the goods for private purposes must be taxed as self-supply (subsection 6 of § 2 of the VAT Act).

See also: **Partial deduction of input value added tax**

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Basis and conditions for the deduction of input VAT

The basis for deduction of input VAT is an invoice received from the transferor of the goods or the service provider in accordance with the requirements provided for in § 37 of the VAT Act (subsection 1 of § 31 of the VAT Act). Among other things, the seller must indicate on the invoice the name of the recipient of the goods or services. The seller may not enter the name of the buyer on the invoice only in the cases provided for in subsection 9 of § 37 of the VAT Act if a simplified invoice is issued. In this case, the buyer will indicate his name on the invoice. A simplified invoice may be issued, provided that the amount indicated in the invoice does not exceed 160 euros exclusive of VAT, in the following cases: upon the provision of transport services for passengers and in the case of invoices printed by parking meters, automated petrol stations and other similar machines. Input VAT cannot be deducted on the basis of an invoice issued in the name of another person (including a private person).

In the case of transactions subject to reverse charge (intra-Community acquisition of goods, acquisition of goods installed or assembled, acquisition of goods by way of a triangular transaction and other acquisition of goods or services from a foreign person engaged in business) an invoice is not required if there is other evidence (subsections 2 and 3 of § 31 of the VAT Act). Other proof may include, for example, a contract for the sale of goods or provision of services, a delivery note, etc., which proves that goods or services have been received in a given volume and value.

In the case of import of goods, input VAT is deducted on the basis of a customs declaration (subsection 4 of § 31 of the VAT Act). A taxable person is entitled to deduct the VAT paid or due on import from the VAT calculated on his taxable supply as input VAT if the imported goods are used for the purposes of the taxable supply. If the importer/consignee indicated on a customs declaration is not the owner of the goods, he may deduct the VAT paid on the import of the goods as input VAT, provided that the goods are used exclusively for the purposes of taxable supply, both by the importer and the owner of the goods. Therefore, for example, a processor may, in principle, deduct input VAT, but must have proof that the owner of the goods is a taxable person who has no limitation on the deduction of input VAT and that the owner uses the goods exclusively for commercial purposes.

At the same time, a customs agency does not have the right to deduct VAT paid on behalf of another person on the import of goods as input VAT, since the customs agency cannot treat the VAT paid or payable for another person as the VAT paid or payable on goods imported for the purposes of its business (subsection 7 of § 31 of the VAT Act).

If goods are imported from a third country which is a part of the Union customs territory (e.g. the Åland Islands), input VAT is deducted on the basis of an invoice received from a third country person engaged in business and a customs declaration form containing the information on the imported goods (subsection 2 of § 38 of the VAT Act). If the amount of VAT due upon import of goods is paid on the basis of a decision resulting from a follow-up inspection by customs authorities, the input VAT is deducted based on the decision of the customs authorities (subsections 4 and 4^1 of § 31 of the VAT Act).

As of 1 April 2012, VAT paid or payable on goods or services received to be used for repair and maintenance of an object of leasing is not deemed to be an input VAT of the lessor. The provision is not applied if the lessor has the obligation to provide repair and maintenance of the object of the lease agreement and the lease agreement is taxed with regard to the goods as well as financial operation or the lessor provides repair and maintenance service (subsection 7^1 of § 31 of the VAT Act).

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Time of deduction of input value added tax

Input VAT must be deducted during the period of taxation during which the goods or services have been acquired or received in accordance with § 11 of the VAT Act (subsection 8 of § 31 of the VAT Act). Thus, as a general rule, the right to deduct input VAT arises at the time when the seller has incurred a tax liability in respect of the deductible VAT (as a rule, dispatch of goods or provision of services, as well as advance payment), provided that the invoice has been received by the time of submission of the return. **As of 1 July 2022** this principle applies to **the acquisition of goods or the receipt of services from a taxable person implementing special arrangements for cash accounting for VAT** (the right to deduct input VAT arises during the period and to the extent that the purchaser generates supply and tax liability) **regardless of whether the purchaser uses the accrual-based or cash-based VAT accounting (subsection 10 of § 31 of the VAT Act)**

Where goods acquired or services received and the invoice issued for such goods or services are received during different taxable periods, input VAT must be deducted in the taxable period when the transferor of the goods or the provider of the services created supply pursuant to § 11 of the VAT Act. If the invoice is not received by the time the VAT return is submitted for a taxable period, input VAT can be deducted in the taxable period during which the invoice is received (subsection 9 of § 31 of the VAT Act).

Upon import of goods, input VAT must be deducted during the taxable period in which the goods have been released by customs authorities. If the taxable person who imported the goods pays VAT through a customs agency, he also has the right to deduct input VAT after customs has released the goods (subsections 6 and 8 of § 31 of the VAT Act).

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Restrictions on deduction of input VAT

Input VAT on goods or services relating to the reception of guests or the provision of meals or accommodation for employees shall not be deducted from calculated value added tax, except for the accommodation of employees on business trips (subsections 1 and 2 of § 30 of the VAT Act).

The restriction on the deduction of input VAT is applied if it is clear at the time the costs are incurred that the costs are incurred for the purpose mentioned above. For example, VAT on restaurant or hotel invoices is not deductible. However, if the costs are incurred for business purposes, but later some of the goods are used for catering, for example, guests or employees, input VAT is initially deducted and the cost is then taxed as self-supply. For example, if a catering company caters its staff and it is not possible to foresee the extent to which the costs will be incurred for the needs of its staff.

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Partial deduction of input value added tax

If a taxable person uses goods or services for the purposes of both taxable supply and supply exempt from tax, input VAT shall be partially deducted from the calculated VAT. Upon partial deduction of input VAT, a taxable person may use either the method of proportional deduction or the method combining direct calculation and proportional deduction during one and the same calendar year.

In accordance with the provisions of subsection 1 of § 29 of the VAT Act, a taxable person has the right to deduct from the VAT payable the input VAT on goods or services used for the purposes of taxable supply of the same taxable period, as well as the input VAT on goods or services used for transactions or acts specified in subsection 2 of § 4 of the VAT Act and related to business or for business carried out in a foreign state, except transactions deemed to be supply exempt from tax (§ 16) of the same taxation period. Therefore, if a company can directly separate in its accounts the input VAT on the goods or services acquired for the purposes of taxable supply and supply exempt from tax, then the deduction of input VAT on those goods and services is subject to direct calculation.

On the remaining costs used for both taxable supply and supply exempt from tax, input VAT must be deducted proportionately. In most cases, such costs are company's general costs such as electricity, utilities, rent etc.

If the taxable person does not consider it necessary to deduct input VAT directly, he can apply the proportional deduction method in respect of the deductible input VAT on all the goods or services used for the purposes of the taxable supply and supply exempt from tax.

DETERMINATION OF PROPORTION WHEN THE GOODS AND SERVICES ACQUIRED ARE USED FOR BOTH TAXABLE SUPPLY AND SUPPLY EXEMPT FROM TAX

The partial deduction of input VAT on the basis of the proportional deduction method is based on the proportion of the supply of the taxable person effected in Estonia and foreign countries during a calendar year where the input VAT can be deducted pursuant to subsection 1 of § 29 of the VAT Act to the total amount of the supply effected by the person in Estonia and foreign countries (hereinafter proportion of taxable supply to total supply).

In calculating this proportion, the transfer of fixed assets is not taken into account regardless of whether or not the transfer of goods is taxed on the basis of subsection 3 of § 16 of the VAT Act. Nor shall account be taken of the incidental provision of services referred to in clause 6 of subsection 2 and subsection 2^1 of § 16 of the VAT Act or the incidental transfer of immovables as goods. This includes

both the provision of occasional financial services and the transfer of securities. The provision of financial services and the transfer of securities can be regarded as incidental or ancillary activities in cases where the economic operator also has its main activity, the resources of which are used, for example, when granting loans or acquiring securities. One-off transactions in which an economic operator acquires immovables and transfers the immovables as goods and does not itself use the immovables as fixed assets can be regarded as incidental transfer of immovables.

Where a taxable person is able to use the method combining direct calculation and proportional deduction, that method distinguishes between the goods and services used:

- ✓ only for the purposes of taxable supply – input VAT is deducted in full;
- ✓ only for supply exempt from tax – no deduction of input VAT;
- ✓ for both taxable supply and supply exempt from tax – input VAT is deducted according to the proportion of taxable supply to total supply on the basis of the abovementioned proportion of taxable supply to total supply.

DETERMINATION OF PROPORTION UPON PARTIAL DEDUCTION OF INPUT VAT UPON ACQUISITION OF FIXED ASSETS, INCLUDING IMMOVABLE PROPERTY

According to the provisions of subsection 4 of § 32 of the VAT Act, the input VAT payable upon the acquisition of fixed assets (including immovable property) and upon the acquisition of goods or services for the purposes thereof is deducted in the month of acquisition of fixed assets or goods or services for the purposes thereof, on the basis of the estimated proportion of the use of fixed assets for taxable supply in the year of acquisition of fixed assets.

Upon acquisition of fixed assets (including immovables), input VAT is not deducted according to the general, i.e. the proportion referred to above, but is based on the use of specific fixed assets for taxable or tax-exempt supply or for non-business purposes. Input VAT is adjusted according to the proportion of actual use of fixed assets for taxable supply as of the year of acquisition of the fixed assets during the period of adjustment of input VAT. The input VAT is to be adjusted only in respect of goods and services acquired for fixed assets which increase the cost of fixed assets and only in respect of goods and services acquired for the purposes of immovables which increase the book value of the immovables.

The period for adjustment of input VAT is ten calendar years in the case of immovables and goods and services relating thereto and five calendar years in the case of other fixed assets and goods and services relating thereto. The first calendar year is the period from the date of acquisition of fixed assets until the end of the current calendar year. In the case of goods or services acquired for fixed assets, the first calendar year is the period from the date of acquisition of goods or services for fixed assets until the end of the current calendar year.

The deducted input VAT must be adjusted at the end of each calendar year (by 1/10 or 1/5, respectively), and the calculations must be recorded in field 10 or 11 of the December VAT return. **As of 2025, upon the initial use of fixed assets, the input VAT must be adjusted in full according to the actual proportion of the use of fixed assets for taxable supply during the taxable period of the use of fixed assets and thereafter 1/10 or 1/5 – this change applies to fixed assets that are put into use on or after 1 January 2025 (also if such fixed assets were acquired before the beginning of 2025).**

Example

On 9 January 2020, a taxable person acquired an apartment ownership (immovable) without VAT and begins to renovate it with the aim of transferring the immovable as a new building and adding VAT. As the taxable person expects VAT to be added upon selling, he deducts the entire input VAT from the renovation costs by a total of 1200 euros. The costs related to improvements exceed 10 per cent of the cost of the building before improvements, and in the case of these expenses, the period for monitoring input VAT is 10 years.
The renovation of the immovable was finished in September 2020 and, in the absence of a buyer, was rented out tax-free in October 2020. Since in 2020 the taxpayer used the renovated apartment ownership only for the purposes of supply exempt from tax, in December 2020 the input VAT deducted on the renovation costs must be recalculated for the first year.
The calculation is as follows: deductible input VAT 12 000 euros divided over 10 years = 1200 euros, i.e. the amount used as the basis for the recalculation to be made at the end of each calendar year. Therefore, 1200 euros had to be shown in field 10 of the December 2020 VAT return. The lease contract expired in September 2021 and in October the same year the immovable was transferred tax-exempt, as there is no possibility of adding VAT to the supply of a used dwelling.
Upon the transfer of the immovable, the input VAT had to be recalculated in the month of the transfer, which means that 10 800 euros (9 × 1200 euros) had to be shown in field 10 of the October 2021 VAT return.

If input VAT is adjusted upon the transfer of fixed assets, the using of fixed assets and the goods acquired or services received for the fixed assets, during the year in which the fixed assets are transferred until the end of the period for adjustment, shall be accounted for as being used for the purposes of the fully taxable supply. If the taxable value of fixed assets upon the transfer is lower than half of the purchase price of the assets, the period as of the month following the transfer of fixed assets until the end of the period for adjustment shall not be taken into account upon the adjustment of input VAT. If the input VAT is adjusted upon the transfer of immovable exempt from tax, the using of the immovable and the goods acquired or service received for the immovable, during the year in which the immovable is transferred until the end of the period for adjustment, shall be accounted for as being used for the purposes of the supply fully exempt from tax.

In the case of goods or services (renovation costs) acquired for an immovable, the first calendar year is the period from the date of acquisition of goods or services for the immovable until the end of the current calendar year (Regulation No 39 of the Minister for Finance of 30 March 2004).

According to the above example, the first year of use of the apartment (2020) generated supply exempt from tax and the apartment was transferred tax-free in 2021, so the total amount of input VAT deducted must be refunded.

Example

Under the same conditions, business premises were renovated and lease contracts were concluded as follows: from September 2020 to September 2022 taxable supply was generated and from from October 2022 to November 2023 supply exempt from tax was generated. In December 2023, the immovable was transferred, (including VAT).
As the supply incurred in 2020 and 2021 includes VAT, no recalculation is required.
In 2022, the supply from the premises rented out is taxable during the period from 1 January to 30 September and exempt from tax from 1 October to 31 December. Based on the actual use, the proportion for 2022 was as follows: 75% for taxable supply and 25% for supply exempt from tax. The basis for the recalculation, i.e. the amount to be corrected, was 1200 euros, of which 300 euros had to be shown in field 10 of the VAT return for December 2022, i.e. 25% × 1200 = 300 euros are to be returned to the state budget.
In 2023, the supply generated from renting out the immovable was exempt from tax from 1 January to 30 November and taxable from December 2023 when the immovable was transferred (including VAT). Upon transferring the immovable (including VAT), the use of immovable and goods or services acquired for it during the remaining period, including the year of transfer of the immovable, are considered as use for the purposes of fully taxable supply. Therefore, the whole of 2023 is counted as a use for taxable supply and there is no need to recalculate input VAT in 2023.

DEDUCTION OF INPUT VAT IN THE CASE OF GOODS OR SERVICES USED FOR BUSINESS AND NON-BUSINESS PURPOSES

Subsection 4 of § 29 of the VAT Act provides that if a taxable person uses goods or services for both business purposes as well as for purposes other than those related to business, only input VAT on goods or services used for the business purposes shall be deducted. The application of subsection 4 of § 29 of the VAT Act must generally be based on a cost-based method, i.e. direct calculation, which means that every purchased goods item or service must be classified according to the intended use and, on that basis, deduction of input VAT is made.

If the goods or services purchased are used for both business and non-business purposes, the taxable person himself must distinguish between the proportion of each of the goods and services used for business purposes (taxable supply) and, accordingly, deduct input VAT.

If it is not possible to distinguish between business expenses and other expenses in the accounts of a taxable person, only then must the taxable person apply to the tax authority for a procedure for deduction of input VAT. Since subsection 4 of § 29 of the VAT Act does not lay down methods or formulas, the tax authority, when implementing the aforementioned provision of law, assesses the nature and specificity of the taxable person’s activities and, on the basis of the proposals of the taxable person, the procedure for partial deduction of input VAT is found which is the most appropriate and

which gives a reasonable result in the deduction of input VAT. If, upon submission of an application by a taxable person, the taxable person does not yet know the income to be received and the proportion of taxable supply, the tax authority shall also have the right to provide, upon approval of the procedure for deduction of input VAT, for the mandatory adjustment of input VAT during the last taxable period of the calendar year.

In principle, the proportion can be calculated on the basis of the proportion of the taxable supply to the total supply, and the input VAT on electricity costs, utilities, etc. used for business and non-business purposes can also be deducted.

Example

A non-profit association incurs both taxable supply and supply exempt from tax and acquires goods or services for its activities. The taxable supply accounts for 80% of the total supply. In its accounts, the non-profit association does not distinguish the input VAT on electricity, utilities, phone services, rental services, etc. used for the purposes of taxable supply. Consequently, it deducts 80% of the input VAT on those costs according to the proportion referred to above.
20% of input VAT is not deducted for both supply exempt from tax and non-business purposes.

When calculating the proportion, the total supply includes the money received in business or as targeted financing or as a grant, i.e. all income from which goods and services can be purchased.

Last updated on 08.01.2025

Passenger cars and VAT accounting

In the case of a passenger car and goods and services purchased for that purpose, there is a scheme whereby instead of the taxation of the self-supply of a passenger car, the deduction of the VAT payable on the purchase of passenger cars (including on hire and leasing) and on the purchase of goods and services for that purpose is limited. The general limit on the deduction of input VAT is 50%.

Therefore, upon acquisition of a passenger car or use under the contract for use and purchase of goods and receipt of services for such a passenger car, usually **50%** of input VAT is deducted from the calculated VAT. Essentially, the proportion of the use of a passenger car for business purposes is considered to be 50%.

The restriction on the deduction of input VAT applies to vehicles of category M1 (including M1G) with a gross weight not exceeding 3,500 kilograms and with no more than eight seats in addition to the

driver's seat.

If a taxable person also has supply exempt from tax or an activity which is not considered to be a business, such circumstances must also be taken into account when deducting input VAT.

Examples of costs related to passenger cars include fuel, spare parts, maintenance, repairs, parking fees, transport costs (e.g. ferry tickets).

The following is not be regarded as expenses related to a passenger car:

- ✓ the cost of placing advertising on a car – these costs are not related to the use of the vehicle, but to advertising;
- ✓ buying or renting a trailer.

If, in addition to work trips, a passenger car purchased for a company is also used for private trips, the procedure is that 50% of the input VAT is deducted from VAT (or less, for example, if the company has a part of its supply exempt from tax) when buying a car used for business purposes or using it on the basis of a contract of use and receiving goods and services for that purpose. Therefore, regardless of the extent to which a passenger car used for business purposes is used for private trips, 50% of the input VAT can be deducted.

The transport of employees between the places of residence and the place of work by employer's passenger car is not deemed to be private use of a passenger car if the conditions provided for in subsection 5^1 of § 48 of the Income Tax Act are met.

EXAMPLES ON DEDUCTING INPUT VAT

Example 1
A car is used for **both business and private purposes**. This car is used to the extent of 60% for taxable supply and 40% for supply exempt from tax. Fuel was bought for 50 euros + VAT 12 euros. 3.6 euros of input VAT can be deducted (12 × 0.5 × 0.6).

Example 2
A car is used **exclusively for business purposes**. This car is used to the extent of 60% for taxable supply and 40% for supply exempt from tax.
Fuel was bought for 50 euros + VAT 12 euros.
7.2 euros of input VAT can be deducted (12 × 0.6).

EXCEPTIONS

Subsection 4 of § 30 of the VAT Act sets out the exceptions in which the deduction of VAT payable on the acquisition of a passenger car and goods and services for that purpose is not restricted.

The exceptions are applied in the following cases:

- ✓ A car is acquired **for selling or for renting it out**.
  It is important that cars acquired for selling or for the granting of use under the contract for use **are not taken into use by the acquirers themselves**. When a car acquired for selling is used for other purposes the **input VAT deducted on the acquisition must be adjusted**. The adjustment must be made during the period of taxation in which a taxable person himself starts using the car originally acquired for selling. If the taxable person is also engaged in the granting of use and the car purchased for selling is, e.g., rented out, the two-year period begins to count from the renting of the vehicle.

- ✓ A car is mainly used for **the carriage of passengers for a charge or for driving lessons**.
  A taxable person has the right to deduct **in full the input VAT on a vehicle** used for business purposes and on goods and services acquired for that purpose if the car is used mainly for the carriage of passengers and on condition that the taxable person has a Community licence and a certified copy of the Community licence or, in the case of the provision of taxi service, a taxi licence and a licence card.
  Private consumption is taxed as self-supply pursuant to subsection 7^1 of § 12 of the VAT Act.
  In accordance with subsection 7^1 of § 12 of the VAT Act, the taxable value of the self-supply in the case of the use of these passenger cars is: the price of a fringe benefit calculated on the basis of the Income Tax Act ÷ 1,2.
  In other words, if a car which is used mainly for the carriage of passengers for a charge or for driving lessons is given to an employee to be used, it is taxed. Unlike other passenger cars, it is possible to deduct 100% of the input VAT on these vehicles even if the car is used for private consumption. What is important is that the vehicle complies with the conditions of clauses 3 and 4 of subsection 4 of § 30 of the VAT Act.
  The taxable value of self-supply, including VAT, arising from the use of a passenger car mainly used for the carriage of passengers or for driving lessons and from a category N1 lorry of a maximum gross weight not exceeding 3500 kilograms for private purposes is the price of fringe benefit calculated on the basis of the Income Tax Act. According to the VAT Act, no self-supply can be generated from the use of other passenger cars for private purposes.

- ✓ A car is used **exclusively for business purposes**. The exception applies only if the car is directly necessary for business purposes and the car is used exclusively for business purposes.

KEEPING RECORDS OF THE USE OF A CAR

A taxable person who applies the above exceptions and who has deducted the input VAT on the passenger car and related expenses in full must ensure that the use of the car for non-business purposes is precluded and may continue to keep records of the use of the car.

The method of keeping records is decided by the company itself – the aim is to ensure that the company's passenger car is used only for business purposes. For example, the company may, among other things, keep detailed records, i.e. a logbook, or use a GPS service provided by a third party.

As a general rule, a passenger car used exclusively for business purposes should be parked outside of work at the company's premises.

The company must decide:

- ✓ how a car is used,
- ✓ how such use is ensured and
- ✓ how both the company management and the tax authority can check its use.

USING A CAR FOR NON-BUSINESS PURPOSES

If a passenger car used for business purposes is used for private purposes, regardless of whether or not the employee reimburses the expenses related to the use of the car, such use is not considered to be use for business purposes only.

This also applies to companies engaged in the granting of use of cars and that grants their employees use of cars for a fee.

In order to avoid double taxation, the private consumption of a car shall not be taxed as self-supply and the granting of the car for use for a fee to an employee or member of the management and control body of a taxable person shall not be deemed to be supply.

The use of a company car for personal journeys is taxed with a fringe benefit on the basis of the power of the vehicle.

RECALCULATION OF INPUT VAT DEDUCTED IN FULL UPON PURCHASE OF A PASSENGER CAR

If, at the time of acquisition a car was considered to be used exclusively for business purposes (so-called 100% car) and input VAT was deducted from the acquisition price in full, but in the two years from

its acquisition the car starts to be used for private journeys, then the input VAT deducted upon the acquisition of the car must be decreased in the VAT return of the month of the acquisition.

Upon adjustment of the input VAT deducted upon acquisition, such passenger car is considered to be a car used partly for business purposes (so-called 50% car) during the entire first two years of use, regardless of the actual proportion of its use for business purposes during the individual months of the first two years.

The input VAT on running costs is not reduced retroactively and the so-called two-year rule is not applied to running costs.

Example
A passenger car is acquired in December 2018 without VAT for 20,000 euros and 100% of the input VAT (4,000 euros) is deducted upon purchase. From June 2019, the car starts to be used for non-business trips – therefore the requirement to use the car for business purposes only for at least two years is not met.
The input VAT must be recalculated in the VAT return for December 2018, reducing the input VAT initially deducted on the purchase of the passenger car by 2,000 euros (50%).

Since input VAT on running costs is not retroactively recalculated, the input VAT on the passenger car and related costs, including the input VAT deducted on acquisition (regardless of the adjustment) will remain in field 5.3 of the VAT return until May 2019.

If the so-called 'two-year rule' is applied to a passenger car whose use for private purposes was taxed as self-supply (a car used for the carriage of passengers or for driving lessons), the amount of VAT to be refunded will be reduced by the VAT already paid on the car's use as self-supply. This means that within two years of the acquisition of the passenger car, the car will either cease to be used for the carriage of passengers or for driving lessons, or it will no longer be used mainly for the carriage of passengers or for driving lessons (and is, among other things, used for non-business purposes).

RESTRICTIONS ON DEDUCTION OF INPUT VAT ON RUNNING COSTS RELATING TO A CAR

If a passenger car is to be used for non-business purposes, as of 1 January 2018, no more than 50% of the input VAT on the costs related to the passenger car can be deducted within one year from the month of starting using the passenger car for non-business purposes, regardless of whether or not the passenger car is also used for non-business purposes in the following months of the one-year period. Supply exempt from tax and being a non-business (e.g. NGO or sole proprietor) may decrease the deduction percentage further.

Example 1
If a car which has been used only for business purposes is used for non-business purposes for the first time, then in the first year (not a calendar year but the following 12 months) from the month in which the first trip for non-business purposes was made, no more than 50% of the input VAT on the costs relating

to that car can be deducted, even if in the following 11 months the car is again used only for business purposes and this can be proved. This means that the restriction on the deduction of input VAT after the first non-business trip is in any event valid for 12 months even if non-business trips are no longer made in the following months.

Example 2

If the deduction of input VAT on costs related to a car is already subject to a 50% restriction and, in addition, the company has both taxable and non-taxable supply and business-related trips are related to both taxable and non-taxable supply, then 50% of the input VAT on the costs relating to the car cannot be deducted, but the proportion between taxable and total supply must be taken into account. For example, if the taxable supply accounts for 60% and the supply exempt from tax 40% of the total supply, the input VAT on costs related to a car can be deducted not by 50%, but by 60% of the 50% (0.6 × 0.5), i.e. only 30%.

Example 3

If a person liable to VAT is a non-profit association or a sole proprietor who is engaged in both business and non-business activities and who deducts input VAT according to subsection 4 of § 29 of the VAT Act, he can deduct input VAT on the costs related to a car according to the proportion of the use of the car for business purposes and not more than 50%. For example, if upon purchase of a car a sole proprietor indicates 40% of costs as related to business, he can deduct 40% of input VAT, not 50%, on the costs related to that car.

The so-called one-year rule applies regardless of the time of purchase of the car – also in the case of passenger cars for which the period of adjustment of input VAT deducted on acquisition has already expired. If the adjustment period has not yet expired, upon adjustment of the input VAT deducted upon acquisition, it must be taken into account at the end of a specific calendar year that, within at least one year from the month of starting to use the car for non-business purposes, the car must be regarded as being partly used for business purposes (a so-called 50% car). As of 1 January 2018, subsection 4 of § 32 of the VAT Act also includes a sentence that the proportion of the use of a car for business purposes must be calculated pursuant to the procedure provided in subsection 4 of § 29 and § 30 of the VAT Act.

Running costs also include lease payments for using a car and the so-called “two-year rule” explained above is not applied in the case of such a car.

Example

A passenger car is acquired in December 2018. The car is first used 100% for business purposes (and only for taxable supply), but from July until September 2019, also for non-business purposes.

As the use for non-business purposes started in July 2019, a new one-year rule is now applicable – from July 2019 to June 2020, 50% of the input VAT on running costs related to the car can be deducted, despite the fact that the car is not actually used for non-business purposes between October 2019 and June 2020.

In July and August 2020, only business-related trips are made – as more than one year has now passed since the introduction of use for non-business purposes, 100% of the input VAT on running costs can be deducted in these months. As of September 2020, the car is again used for non-business purposes, and as of that month, the deduction of input VAT on the running costs related to the car is again 50% until at least August 2021.

TAXABLE VALUE OF THE SELF-SUPPLY ARISING FROM THE USE OF A PASSENGER CAR MAINLY USED FOR THE CARRIAGE OF PASSENGERS OR FOR DRIVING LESSONS AND OF A LORRY OF CATEGORY N1 WITH GROSS WEIGHT NOT EXCEEDING 3500 KILOGRAMS FOR NON-BUSINESS PURPOSES

As of 1 January 2018, the taxable value of such self-supply together with VAT is the price of the fringe benefit calculated on the basis of the Income Tax Act. According to the VAT Act, no self-supply can be generated from the use of other passenger cars for private purposes.

According to subsection 8 of § 48 of the Income Tax Act, in such a case, the price of the fringe benefit is, as a general rule, 1.96 euros per unit of engine power (kW) indicated in the motor register, and 1.47 euros in the case of a vehicle older than 5 years.

Last updated on 01.07.2025

Payment and receipt of value added tax

DEADLINE FOR PAYMENT OF VAT

A taxable person or taxable person with limited liability shall pay the amount of VAT due by the date of submission of the VAT return, i.e. by the 20th day of the month following the taxable period. The person shall, pursuant to the same procedure, pay any amount of VAT which the person has indicated in an invoice or other sales document issued in violation of provisions of law (subsection 1 of § 38 of the VAT Act).

If a person not registered as a taxable person has erroneously indicated the amount of VAT on an invoice or other sales document issued, the person shall pay VAT by the twentieth day of the month following the month in which the corresponding invoice or other sales document is issued (subsection 3 of § 38 of the VAT Act).

If the 20th day falls on a public holiday or other holiday, VAT must be paid on the first working day following the day off.

RECEIPT OF VAT

Value added tax shall be paid into the state budget.

Last updated on 08.01.2025

Payment of VAT upon import of goods

Upon import of goods, VAT must be paid in accordance with the procedure laid down in customs legislation. Upon import of goods from a special territory which is part of the customs territory of the Union and in which case the import of goods does not take place within the meaning of customs legislation, a person must submit information concerning the import of the goods on a customs declaration form and pay VAT pursuant to the procedure provided for in the customs legislation (subsection 2 of § 38 of the VAT Act).

Last updated on 08.01.2025

Authorisation to declare import of goods/fixed assets on form KMD

This provision allows traders who fulfil certain conditions to declare the VAT charged on goods imported from third countries in the VAT return (hereinafter form KMD) at the same time as the right to deduct it, if the goods are used for the purposes of the taxable supply. In other words, a company with taxable supply does not incur any real tax liability, since the calculated VAT can be deducted as input VAT on the same form KMD (by indicating a plus and a minus on form KMD). If a company generates supply exempt from tax, the input VAT can be deducted in part according to the proportion of supply exempt from tax to total supply.

CONDITIONS

In order to declare the VAT calculated on import on form KMD, the following conditions are laid down for a taxable person (e.g. a company, a sole proprietor, hereinafter the person) to fulfil (subsection 2^{1} of § 38 of the VAT Act):

1. the person has been registered as a taxable person for at least preceding 12 consecutive months;
2. the person's supply taxable at the 0 percent value added tax rate has formed at least 50 percent of the total supply of the preceding 12 months **(repealed 1 January 2019)**;
3. the person has submitted tax returns only by electronic means within preceding 12 months

(repealed 1 January 2019);

4. the person has not failed to submit tax returns on time within preceding 12 months;
5. the person has not had tax arrears within the preceding 12 months (**in this context, tax arrears paid in instalments are treated as having no arrears**).

The person can declare VAT on the import of goods on form KMD if all the conditions are met and if the tax authority has also confirmed that the conditions are met. If one of the conditions is not met, VAT on the import of goods must be paid in accordance with the customs legislation (on the basis of a customs declaration).

CONDITIONS FOR IMPORTING FIXED ASSETS

Import of fixed assets is provided as an exception. In this case, the first three conditions (subsection 2^2 of § 38 of the VAT Act) need not be met (**first condition as of 1 January 2019**):

1. the person has been registered as a taxable person for at least preceding 12 consecutive months;
2. the person's supply taxable at the 0 percent value added tax rate has formed at least 50 percent of the total supply of the preceding 12 months; (**repealed 1 January 2019**);
3. the person has submitted tax returns only by electronic means within preceding 12 months; (**repealed 1 January 2019**).

However, the last two conditions must be met, i.e. **the person has not failed to submit tax returns on time within preceding 12 months; and the person has not had tax arrears within the preceding 12 months.**

If the person does not comply with the first three conditions specified in subsection 2^1 of § 38 of the VAT Act (with the first of those conditions as of 1 January 2019), the tax authority has the right to demand the provision of a security.

A security shall be submitted, released, used and calculated in accordance with Chapter 12 of the Taxation Act. A security may be required only on import of fixed assets, i.e. no security is required when goods are imported.

CHANGE FOR FUEL SELLERS FROM 1 FEBRUARY 2019

As of 1 February 2019 an amendment to subsection 2^7 of § 38 of the VAT Act entered into force for the sellers of fuel within the meaning of the Liquid Fuel Act who have an activity licence for the import of fuel and the obligation to provide security upon import of fuel. In such a case, the seller of fuel does not have to comply with the conditions laid down in subsection 2^1 of § 38 of the VAT Act. On the basis of a notification, the seller of fuel who is a taxable person for VAT purposes will have the right to declare the import of fuel in the VAT return even if the required conditions are not met.

APPLYING FOR THE RIGHT TO DECLARE VAT ON THE IMPORT OF GOODS OR FIXED ASSETS ON FORM KMD (HEREINAFTER AUTHORISATION)

The authorisation to declare import of goods or fixed assets on form KMD can be applied for by a person who is the consignee of the goods according to the documents on the basis of which the goods are placed under the customs procedure for release for free circulation. Usually, the importer (consignee) is the purchaser of the goods. If a person other than the purchaser is indicated in the documents as the consignee, the importer is the consignee.

Submission of an application

Persons who wish to declare the VAT on import of goods or fixed assets on form KMD must first notify the tax authority in writing (submit an application). The application can be submitted only electronically in the e-services environment e-MTA (after signing in, select “Customs”>”Rights and obligations” > “Licenses (LUBA)”).

Upon submission of the application, select if you want to apply for the authorisation for:

- ✓ declaring VAT on the import of goods on form KMD (hereinafter authorisation to import goods)
- ✓ declaring VAT on the import of fixed assets on form KMD (hereinafter authorisation to import fixed assets)

The following data must be submitted upon applying for the authorisation:

- ✓ details of the applicant (for both goods and fixed assets): registry code/personal identification code, business name, address of residence or seat, VAT number;;
- ✓ details of the applicant’s contact person (for both goods and fixed assets): name, e-mail address, phone number, seller of fuel (as of 1 February 2019);
- ✓ additional information when applying for authorisation upon import of fixed assets: the term during which fixed assets are imported (maximum 3 months), the value of the goods – the estimated taxable value of the fixed assets to be imported (§ 13 of the VAT Act), the description of the goods – commercial and/or technical specifications.

If a person has a valid authorisation to import goods, then there is no need to apply for a separate authorisation for the import of fixed assets in order to import fixed assets.

Compliance check

After the application is submitted, the tax authority carries out a verification of the person's compliance with the conditions of the VAT Act and confirms compliance with the conditions or failure to comply with the conditions within 30 days as of the receipt of the application (in the information system LUBA in the e-MTA).

The tax authority may ask the person for additional information on the fulfilment of the conditions if it does not have enough information. If a security is required, a security claim shall be submitted to the person.

Issuing of the authorisation

The authorisation to import goods is issued if all five conditions have been met by the person(**three as of 1 February 2019**. If one of the conditions is not met, the authorisation is not issued. As a general rule, the authorisation is issued for an indefinite period.

The authorisation to import fixed assets is issued if all five conditions have been met (three as of 1 January 2019) or if the first three (the first one as of 1 January 2019) have not been fulfilled, but upon request of a security it is accepted by the tax authority. The authorisation is issued for a limited period, in accordance with the time limit specified in the application.

Renewal, suspension and revocation of authorisation

In the case of a person who has been granted the authorisation to import goods, the tax authority verifies compliance with the conditions on a monthly basis (subsection 2^4 of § 38 of the VAT Act; the results are visible in the e-MTA information system LUBA). If the applicant fulfils the conditions, the validity of the authorisation to import goods is extended until the end of the following calendar month. If the applicant does not meet the conditions, the authorisation to import goods is suspended until the end of the following calendar month.

The tax authority has the right to suspends both the authorisation to import goods as well as fixed assets during a tax procedure (subsection 2^4 of § 38 of the VAT Act).

In order to revoke the authorisation to import goods, a person must submit a corresponding application. As the authorisation to import fixed assets is issued for a fixed term (deadline specified in the application), the authorisation will be revoked when the deadline is exceeded (there is no need to submit a separate application).

The tax authority revokes the authorisation for both goods and fixed assets upon deletion of a person from the register of taxable persons (subsection 2^5 of § 38 of the VAT Act) and may revoke the authorisation by means of a notice of assessment or if the validity of the authorisation has been

suspended for six consecutive months (subsection 2^6 of § 38 of the VAT Act).

Please note that the application for authorisation to import goods is submitted once, unless the authorisation was not granted on the basis of a prior application or if the prior authorisation has been revoked.

In the event that a prior authorisation to import fixed assets has been revoked or if there is a wish to import fixed assets which are not indicated in the authorisation, a new application must be submitted.

Filling in a customs declaration

Upon valid authorisation to import goods or fixed assets, additional document codes 6024 (goods, filled in automatically) or 6025 (fixed assets, filled in manually) must be indicated in a declaration and the method of payment must be indicated as “2”.

Filling in form KMD

In the case of an authorisation to import goods or fixed assets, the VAT calculated on import of goods must be declared in field 4.1 of form KMD, which is a field to be filled in by the tax authority according to the data obtained from Impulss (the system for processing customs declarations). Taxable persons themselves cannot fill in or amend the field 4.1.

Last updated on 08.01.2025

Removal of goods from tax or excise warehouses

PAYMENT OF VAT ON THE REMOVAL OF GOODS FROM A TAX OR EXCISE WAREHOUSE WITHOUT TRANSFERRING THE GOODS

Upon termination of the tax warehousing of goods and the removal of excise goods under an excise suspension arrangement from an excise warehouse without transfer, the owner of the goods becomes liable to VAT (clauses 5 and 6 of subsection 6 of § 3 of the VAT Act).

Upon the termination of warehousing in the described situation, a taxable person declares VAT on the VAT return (subsections 1 and 2 of § 29 of the VAT Act). In such a case, VAT is calculated and paid in accordance with the reverse charge procedure in fields 1 and 4 of form KMD and, in the case of goods

used for the purposes of taxable supply, the VAT due is also deducted as input VAT in field 5 of the KMD, which means that no real tax liability arises from that transaction.

If warehousing is terminated by a person who is not registered as a taxable person, the person shall submit information on the goods and pay VAT at the latest on the day of the termination of the tax warehousing of the goods or the removal of the goods from the excise warehouse in accordance with **Regulation No 26 of the Minister of Finance of 15 June 2022** (subsections 5^1 and 8 of § 38 of the VAT Act). **VAT return for special case**

The owner of the goods will not become liable to tax upon removing goods from a tax warehouse if the owner himself placed the goods to the tax warehouse and the goods were not transferred in the tax warehouse, unless the person was able to use the exemption for placing goods in a tax warehouse immediately following the import of goods, national supply or intra-Community acquisition (clause 5 of subsection 6 of § 3 of the VAT Act). For example, the described tax liability does not arise if a person places a certain quantity of grain in a tax warehouse, sells it in a tax warehouse at a zero rate, but removes the unsold part from the tax warehouse.

Upon removal of goods from an excise warehouse under an excise suspension arrangement, the owner of the goods shall not be liable to tax if the person was also the owner of the goods upon placing the goods in an excise warehouse and the goods have not been transferred in the excise warehouse (clause 6 of subsection 6 of § 3 of the VAT Act). Since taxation with VAT is different when goods are transported to an excise or tax warehouse, the provisions on tax warehousing must be taken into account in a situation where goods leaving an excise warehouse are also subject to tax warehousing.

Last updated on 08.01.2025

Acquiring excise goods from another Member State

PAYMENT OF VAT ON THE ACQUISITION OF EXCISE GOODS FROM ANOTHER MEMBER STATE

If fuel (other than natural gas), alcohol or tobacco products are acquired by a person not registered as a taxable person for VAT or a taxable person with limited liability for VAT, the person must pay VAT at the same time as excise duty by the due date for payment of excise duty provided for in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act (clause 4 of subsection 6 of § 3 and subsection 5 of § 38 of the VAT Act).

If a natural person acquires excise goods for personal purposes, he or she does not have to pay VAT

(clause 4 of subsection 6 of § 3 of the VAT Act).

The procedure for declaring and paying VAT upon acquisition of excise goods from another Member State by a person not registered as a taxable person or taxable person with limited liability has been established by **Regulation No 26 of the Minister of Finance of 15 June 2022**.

VAT return for special cases

Last updated on 08.01.2025

New means of transport from another Member State

PAYMENT OF VAT UPON ACQUIRING A NEW MEANS OF TRANSPORT FROM ANOTHER MEMBER STATE

If the acquirer of a new means of transport is a person who is not registered as a taxable person, he or she must, within 10 calendar days as of the date of delivery of the means of transport to Estonia, but no later than by the date of registration of the means of transport, submit documents certifying the acquisition of the means of transport to the Estonian Tax and Customs Board (ETCB) and pay VAT (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**.

On a new means of transport which is not going to be registered (e.g. a racing motorcycle), VAT must be paid within 10 calendar days as of the date of delivery of the means of transport to Estonia.

Last updated on 21.05.2025