

The place of supply is not Estonia

SERVICES AT THE PROVISION OF WHICH THE PLACE OF SUPPLY IS NOT ESTONIA

Subsection 4 of § 10 of the VAT Act sets out a list of services for which the place of supply is not Estonia and if provided by an Estonian taxable person an obligation to register in the country of provision of the service may arise.

The place of supply is not Estonia:

1) services connected with an immovable located in a foreign country, including construction, valuation and maintenance, and services for the transfer of the immovable, for preparing or coordinating construction works, and accommodation services are provided;

2) cultural, artistic, sporting, educational, scientific or entertainment services or services connected with trade fairs or exhibitions are provided in a foreign country to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business. The services also include the organisation of related events and provision of ancillary services;

2¹) entrance services to cultural, artistic, sporting, educational, scientific or entertainment events or trade fairs or exhibitions or ancillary services related to entrance services are provided in a foreign country to a taxable person or taxable person with limited liability or to a third country person engaged in business;

3) work is performed with movables located in a foreign country or movables located in a foreign country are valued and the services specified in this clause are provided to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business;

4) transport services related to the carriage of passengers, including their personal luggage and personal means of transport are provided outside Estonia;

4¹) means of transport is hired or leased or a usufruct is established thereon in a foreign state on a short-term basis;

4²) means of transport is hired or leased or a usufruct is established thereon to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business and whose seat or place of residence is in a foreign country, except in the cases provided in clauses 4¹ and 4³ of subsection 4 and clause 6 of subsection 2 of § 10;

(According to the above, when a means of transport is hired, leased or usufruct on a long-term basis to

the aforementioned person, the place of supply of the service is the place of location or residence of the recipient of the service. If the place of location or residence is a foreign country, the place of supply of the service is also the foreign country.)

4³) pleasure or recreational craft are hired or leased or a usufruct is established thereon in a foreign country to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business and the service provider's seat or permanent business establishment is in a foreign country, except in the cases provided in clause 4¹ of subsection 4 of § 10;

(An exception is the provision of long-term rental services for recreational and pleasure craft, where the place of supply of the service is the place where the supplier has established its business or has a permanent establishment, if the vessel is actually made available to the lessee from that place of business or permanent establishment. Therefore, the place of supply of the service is a foreign country, if the recreational or pleasure craft is given for long-term lease, hire or a usufruct is established to the above-mentioned person and the location or permanent place of business of the service provider is the foreign country).

5) restaurant or catering services are provided during the carriage of passengers taking place in the Community territory on board of such a vessel or aircraft or in a train departing on an international route from another Member State;

5¹) restaurant or catering services are provided in a foreign country, except in the cases where, during the carriage of passengers within the territory of the Community, restaurant or catering services are provided on board of such a vessel or aircraft or in a train departing on an international route from Estonia or another Member State;

6) transport services for goods from another Member State to Estonia or outside Estonia are provided, including the carriage of means of transport related to the carriage of goods, or such carriage of goods is organised to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business;

7) ancillary services related to transport of goods are carried out outside Estonia to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business;

8) a transaction or other act the place of supply of which is not Estonia is mediated and the intermediation service is provided to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business;

In the case of services referred to in points 2, 3 and 6 to 8 of the list, the place of supply is not Estonia:

- ✓ **if services are provided to a person who is not registered as a taxable person or taxable person with limited liability in any of the Member States or who is not a third country person engaged in business;**
- ✓ **if the service is provided to a person registered as a taxable person or a taxable person with limited liability in another Member State (according to subsection 1 of § 10 of the VAT Act), i.e. the place of supply is the country where the recipient of the service has registered as a taxable person.**

9) services are provided in the cases not specified in clauses 1–8 and subsection 2 of § 10 through a seat or permanent business establishment in Estonia to a taxable person or taxable person with limited liability registered in another Member State or to a third country person engaged in business.

Thus, the place of supply is not Estonia and the service is taxed in the country of residence of the recipient if:

1. work is performed with movables located in Estonia or movables located in Estonia are valued and the services are provided to a person who is registered as a taxable person or taxable person with limited liability in another Member State or who is a third country person engaged in business;
2. transport services are provided in Estonia, including the carriage of means of transport related to transport service, or such transport of goods is organised and the service is provided to a person who is registered as a taxable person or taxable person with limited liability in another Member State or who is a third country person engaged in business;
3. transport services of goods from Estonia to another Member State are provided, including the carriage of means of transport related to transport service, or such transport of goods is organised to a person who is registered as a taxable person or taxable person with limited liability in another Member State or who is a third country person engaged in business;
4. an ancillary service related to the transport of goods is provided in Estonia to a person registered as a taxable person or taxable person with limited liability in another Member State or who is a third country person engaged in business;
5. a transaction or other act the place of supply of which is Estonia is mediated and the intermediation service is provided to a person who is registered as a taxable person or taxable person with limited liability in another Member State or who is a third country person engaged in business.

The service provider in Estonia taxes supply at a 0% tax rate.

Additionally, according to subsection 4 of § 10¹ of the VAT Act, the place of supply is not Estonia if an electronic communications service or electronically supplied service is provided to a person who is established or residing in another Member State and who is not registered as a taxable person or taxable person with limited liability in any Member State.

Lisaks sellele vastavalt KMS § 10¹ lõikele 4 käibe tekkimise koht ei ole Eesti, kui osutatakse elektroonilise side teenust või elektrooniliselt osutatavat teenust teises liikmesriigis asu- või elukohta omavale isikule, kes ei ole üheski liikmesriigis registreeritud maksukohustuslasena ega piiratud maksukohustuslasena.

(Beginning from 01.01.2019, the place of supply is Estonia, if:

1. such service is provided by a business operator having its registered office or permanent establishment only in Estonia,
2. the total supply of electronic communications services and electronic services provided by the service provider to persons not registered as taxable persons did not exceed 10,000 euros in the previous calendar year and does not exceed 10,000 euros in the current calendar year, and
3. the service provider has not voluntarily identified the Member State of the recipient as the place of supply.)

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