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VALUE ADDED TAX ACT[2]

Passed by an Act of 10 December 2003 (RT[3] I 2003, 82, 554), entered into force in accordance with § 50.

Amended and supplemented by the following Acts (date when passed, publication in the *Riigi Teataja*, date of entry into force):

21.04.2004 (RT I 2004, 41, 278) 1.06.2004

6.05.2004 (RT I 2004, 43, 299) 20.05.2004, the amendment shall be applied retroactively as of 1 May 2004

12.05.2004 (RT I 2004, 45, 315) 27.05.2004

20.10.2004 (RT I 2004, 75, 523) entered into force retroactively as of 1 May 2004

8.12.2004 (RT I 2004, 89, 603) 1.01.2005

9.02.2005 (RT I 2005, 13, 63) 1.05.2005

12.10.2005 (RT I 2005, 57, 451) 18.11.2005

7.12. 2005 (RT I 2005, 68, 528) 1.01.2006, in part 1.01.2007, some of the amendments shall be applied retroactively as of 1.11.2005 and the date of entry into force thereof shall be 23.12.2005

15.11.2006 (RT I 2006, 55, 405) 1.01.2007

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1 Riigikogu = the Parliament of Estonia

2 Eighth Council Directive 79/1072/EEC on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in the territory of the country (OJ L 331, 27.12.1979, pp. 11–19), as last amended by Directive 2006/98/EC (OJ L 363, 20.12.2006, pp. 129–136);

Thirteenth Council Directive 86/560/EEC on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in Community territory (OJ L 326, 21.11.1986, pp. 40–41);

Council Directive 2006/112/EC on the common system of value added tax (OJ L 347, 11.12.2006, pp. 1–118), as last amended by Directive 2009/69/EC (OJ L 175, 4.07.2009, pp. 12–13);

Council Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries (OJ L 346, 29.12.2007, pp. 6–12);

Council Directive 2008/9/EC laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.02.2008, pp. 23–28).

[RT I 2009, 56, 376 – entered into force 1.01.2010]

3 RT = *Riigi Teataja = State Gazette*

8.02.2007 (RT I 2007, 17, 83) 1.03.2007, subsections 50 (3) and (4) shall be applied retroactively as of 1 July 2006

8.02.2007 (RT I 2007, 17, 83) 1.01.2008

consolidated text on paper RT (RT I 2007, 30, 186)

26.09.2007 (RT III 2007, 32, 259) 26.09.2007

19.11.2008 (RT I 2008, 51, 283) 1.01.2009

4.12.2008 (RT I 2008, 58, 323) 1.01.2009

4.12.2008 (RT I 2008, 58, 324) 31.12.2008, applied retroactively as of 1.12.2008

4.12.2008 (RT I 2008, 58, 324) 1.01.2009

4.12.2008 (RT I 2008, 58, 324) 1.01.2010

17.12.2008 (RT I 2008, 58, 329) 1.01.2009

22.04.2009 (RT I 2009, 24, 146) 1.06.2009

18.06.2009 (RT I 2009, 35, 232) 1.07.2009

1.09.2009 (RT I 2009, 46, 307) 16.09.2009, applied retroactively as of 1.07.2009

11.11.2009 (RT I 2009, 56, 376) 1.01.2010, in part 1.01.2011

Chapter 1

GENERAL PROVISIONS

§ 1. Object of taxation

(1) The following shall be subject to value added tax:

1) supply created in Estonia, except supply which is exempt from tax;

2) import of goods into Estonia (§ 6), except imports exempt from tax (§ 17);

3) provision of services the place of supply of which is not Estonia (subsections 10 (4) and (5)), except supply exempt from tax;

[RT I 2009, 56, 376 – entered into force 1.01.2010]

4) supply of goods or services specified in subsection 16 (3) of this Act if the taxable person has added value added tax to the taxable value of such goods or services;

5) intra-Community acquisitions of goods (§ 8), except intra-Community acquisitions of goods which are exempt from tax (§ 18).

(2) Value added tax is applied as tax on added value, with the exception of special cases arising from this Act.

§ 2. Definitions

(1) In this Act, terms relating to countries and territories are used as follows:

1) "Estonia" means the territory under the jurisdiction of the Republic of Estonia;

2) "European Community" (hereinafter the Community) means the territory comprising the territories of the Member States specified in clause 3) of this subsection;

3) "Member State" means the territory of a Member State of the Community pursuant to Articles 5 (2) and 7 of Council Directive 2006/112/EC on the common system of value added tax (OJ L 347, 11.12.2006, pp. 1–118);

[RT I 2008, 58, 324 – entered into force 1.01.2009]

4) "foreign country" means a state or a territory under the jurisdiction thereof, with the exception of Estonia;

5) "third country" means a state or a territory under the jurisdiction thereof, other than those defined in clause 3) of this subsection as Member States.

(2) For the purposes of this Act, "business" means the independent economic activity of a person (§ 3), in the course of which goods are transferred or services provided, whatever the purpose or results of that activity. The professional activities of a notary, bailiff and sworn translator are also deemed to be business. Provision of services between a company and its permanent establishment is not deemed to be business. The activities of state, rural municipality and city authorities and legal persons in public law are deemed to be business only where such authorities or persons engage in economic activities listed in Annex I to Council Directive 2006/112/EC or where their activities involve transactions and acts listed in subsection 1 (1) of this Act which may also be performed by other taxable persons and where non-taxation would lead to significant distortions of competition.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) In this Act, the terms "goods" and "services" are used in the following meaning:

1) "goods" means things, livestock, gas, electric power, heat and refrigeration. Immovables, as defined in the General Part of the Civil Code Act, right of superficies, utility networks and utility works, as defined in the Law of Property Act, structures as movables, as defined in the Law of Property Act Implementation Act, and apartment ownership and right of superficies in apartments, as defined in the Apartment Ownership Act, are deemed to be immovables. Data media which are freely available to all purchasers and which carry standard software or standard information intended to perform the same functions are also deemed to be goods;

2) "goods installed or assembled" are goods which are transferred and installed or assembled by or on behalf of the transferor in another Member State and in the case of which the cost of installation or assembly exceeds 5 per cent of the taxable value of the transaction;

3) "services" means the provision, in the course of business activities, of benefits or the transfer of rights, including securities, which are not goods according to clause 1) of this subsection, and obligations to refrain from economic activity, to waive the exercise of a right or to tolerate a situation for a charge. Software and information transmitted by electronic means, and data media carrying software or information which are especially compiled or adjusted according to the purchaser's specifications are also services.

(4) For the purposes of this Act, the following are electronically supplied services:

1) website supply;

2) web-hosting;

3) distance maintenance of programmes and equipment;

4) transfer and updating of software transmitted by electronic means;

5) images, text and information transmitted by electronic means, and making electronic databases available;

6) music, films and games, including gambling games, transmitted by electronic means;

7) political, cultural, sporting, scientific and entertainment broadcasts transmitted by electronic means;

8) distance education and other services similar to the services specified above.

Where the provider of a service and the recipient of the service communicate using electronic means, this shall not of itself mean that the service is deemed to be an electronically supplied service.

(5) "Transfer" means the transfer of possession of goods together with the risk of accidental loss of the goods and the right to dispose of the goods and enjoy the economic benefits related to the goods as owner, regardless of the status of the goods in property law. For the purposes of this Act, "transfer" also means the transfer of goods pursuant to a commission contract and the handing over of goods pursuant to a transaction which provides that ownership of the goods is to pass to the contractual user of the goods upon termination of the contract.

(6) "Self-supply" means the transfer without charge of goods forming part of the business assets and provision of services without charge by a taxable person as well as use without charge of goods forming part of the business assets by the taxable person itself, its employee, servant or member of the management or control body for personal purposes or for purposes other than business. The transfer or use of goods in the abovementioned cases shall be deemed to be self-supply if the taxable person has deducted the input value added tax on the goods or a part of the goods from its calculated value added tax in full or in part.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(7) For the purposes of the Value Added Tax Act, "new means of transport" means:

1) a vessel exceeding 7.5 metres in length which is transferred within three months as of the date of first entry into service or which has sailed for less than 100 hours, with the exception of sea-going vessels specified in clause 15 (3) 3) of this Act;

2) aircraft the take-off weight of which exceeds 1,550 kilograms which is transferred within three months as of the date of first entry into service or which has flown for less than 40 hours, with the exception of aircraft specified in clause 15 (3) 4) of this Act;

3) a motorised land vehicle the capacity of which exceeds 48 cubic centimetres or the power of which exceeds 7.2 kilowatts and which is transferred within six months as of the date of first entry into service or which has travelled less than 6,000 kilometres;

(8) "Triangular transaction" means a transaction for the transfer of goods which involves taxable persons from three different Member States and meets all of the following criteria:

1) a taxable person established in Member State A (hereinafter the transferor in the triangular transaction) transfers a good to a taxable person established in Member State B (hereinafter the reseller in the triangular transaction) which then in turn transfers it on to a taxable person established in Member State C (hereinafter the acquirer in the triangular transaction);

2) the goods in question are transported directly from Member State A to Member State C to the acquirer in the triangular transaction;

3) the reseller in the triangular transaction is not registered in Member State C as a taxable person or a taxable person with limited liability;

4) the acquirer in the triangular transaction pays value added tax on the acquisition of goods by the triangular transaction.

(9) "Distance selling" means the transfer and delivery of goods, other than a new means of transport or goods installed or assembled, by or on behalf of the transferor to another Member State to a person who is not registered in that Member State as a taxable person or a taxable person with limited liability.

(10) For the purposes of this Act, "investment gold" means gold, in the form of a bar or a wafer, of a purity equal to or greater than 995 thousandths, and gold coins which are minted after 1800, are or have been legal tender, are of a purity equal to or greater than 900 thousandths and are not sold for numismatic interest.

(11) "Intermediation" means the activity of a taxable person in the name and for the account of another person. At least the following requirements must be met for acting in the name and for the account of another person:

1) the intermediary and the transferor or acquirer of the goods or the provider or recipient of the service have concluded a contract for the intermediation of the goods or services;

2) the transferor of the goods or provider of the service is liable for the transfer of the goods or provision of the service;

3) the goods are transferred or the service is provided at a price established or approved by the transferor of the goods or provider of the service under the terms and conditions established thereby for the recipient of the goods or service;

4) only the commission fee shall be shown in the accounts of the intermediary as supply of the intermediary;

5) if the recipient of the goods or service is entitled to an invoice, such invoice shall be issued by the transferor of the goods or provider of the service or another person, including the intermediary, in the name of the transferor of the goods or provider of the service.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 3. Taxable person and tax liability

(1) A person liable to value added tax (hereinafter taxable person) is a person, including a legal person in public law or a state, rural municipality or city authority (hereinafter person), who is engaged in business and is registered or required to register as a taxable person (§ 19). A person is a natural person or a legal person, including a legal person in public law or a state, rural municipality or city authority. A taxable person of a foreign state or another Member State is a person, including a pool of assets or association of persons without the status of legal person, treated as a person liable to value added tax according to the legislation of the state in question.

(2) A person liable to value added tax with limited liability (hereinafter taxable person with limited liability) is a person, except a natural person not engaged in business, who is registered or required to register as a taxable person with limited liability (§ 21). A taxable person with limited liability of another Member State is a person, including a pool of assets or association of persons without the status of legal person, who is registered for value added tax in that Member State and whose tax liabilities correspond to the tax liabilities of a taxable person with limited liability.

(3) A taxable person or taxable person with limited liability shall pay value added tax as of the date of registration as a taxable person or taxable person with limited liability.

($3^{1)}$ A foreign taxable person is not deemed to be an Estonian taxable person due to its permanent 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 establishment located in Estonia.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) A taxable person shall calculate value added tax on the transactions and acts specified in subsection 1 (1) of this Act and, in the case of supply specified in clause 1 (1) 1) of this Act, the taxable person shall pay value added tax on the following:

1) supply subject to taxation (hereinafter taxable supply);

2) 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;

[RT I 2009, 56, 376 – entered into force 1.01.2010]

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;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

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 subsection 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.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(5) A taxable person with limited liability shall pay value added tax on acts specified in clauses 1 (1) 2) and 5) of this Act and acts listed in clauses (4) 2)-5) of this section.

(6) The following shall also pay value added tax:

1) a debtor within the meaning of the Community Customs Code (Council Regulation (EEC) No 2913/92);

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;

3) a person not registered as a taxable person or taxable person with limited liability, except the persons specified in subsections 39 (1) or (2) of this Act who acquires a new means of transport from another Member State;

[RT I 2005, 68, 528 – entered into force 1.01.2006]

4) a person not registered as a taxable person or taxable person with limited liability who acquires liquid fuel, alcohol or tobacco product (hereinafter excise goods) from another Member State, except a natural person who acquires excise goods for personal use;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

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 already the owner of the goods 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.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

6) the owner of excise goods 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 taken out of the excise warehouse have also been placed in a tax warehouse, clause 5) of this subsection shall apply.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

Chapter 2

TAXABLE TRANSACTIONS AND ACTS

§ 4. Supply

(1) The following are supply:

1) the transfer of goods and provision of services in the course of business activities;

2) self-supply of goods or services;

3) the transport of goods to another Member State, without transferring them, for them to be used for business purposes there (clause 7 (1) 3));

4) expropriation of goods for a charge.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) The following are not deemed to be supply:

1) the transfer of an enterprise or a part thereof within the meaning of the Law of Obligations Act;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

2) the owner taking goods out of Estonia without transferring them, except in the case specified in clause (1) 3) of this section;

3) granting use of state assets without charge within the meaning of the State Assets Act and privatisation of state, rural municipality or city assets;

4) handing over the assets of a company, non-profit association or foundation to another company, non-profit association or foundation upon the merger, division or transformation of the company, non-profit association or foundation;

5) [Repealed – RT I 2008, 58, 324 – entered into force 1.01.2010]

6) handing over, in business interests, goods free of charge as product samples not for sale or handing over goods the value of which does not exceed 150 kroons for advertising purposes;

7) [Repealed – RT I 2008, 58, 324 – entered into force 1.01.2009]

§ 5. Export of goods

(1) The export of goods means the following:

1) the transfer of Community goods by the transferor of the goods or foreign acquirer of the goods with transport of the goods to a destination outside the customs territory of the Community;

2) the re-export of non-Community goods placed under the temporary importation procedure with partial relief from import duties from the Community customs territory under the customs-approved treatment of re-exportation;

3) the re-export from the Community customs territory of non-Community goods placed under the inward processing procedure applying the suspension system, or the re-exportation of non-Community goods as take-away supplies or consumption supplies on board a vessel or aircraft bound for a third country under the customs-approved treatment of re-exportation;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

4) the transfer of goods exported from the Community customs territory under the outward processing procedure and the discharge of the procedure for the goods;

5) the transfer of goods by the transferor of the goods or foreign acquirer of the goods to a third country which belongs to the customs territory of the Community;

(2) The transfer of goods to a third country natural person for transportation to the third country in baggage with which the person is travelling may also be treated as the export of goods, if all of the following criteria are met:

1) the natural person is resident in the third country;

2) the sales price of the goods in the packaging transferred to the person by the same taxable person at the same point of sale on the same date, together with value added tax, exceeds 2,000 kroons;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

3) the purchaser takes the goods in unopened packaging out of the Community not later than by the end of the third month following the transfer of the goods;

4) the taxable person has a document with customs confirmation certifying that the purchaser has taken the goods out of the Community.

(3) The procedure for treating goods transferred to third country natural persons as exports shall be established by a regulation of the Minister of Finance.

(4) The transfer of goods to a traveller bound for a third country at sales facilities located in the customs control zone of an international airport open for passenger traffic is also treated as the export of goods.

(5) The export of goods is certified by the documents in proof of taking the goods out of the Community and transfer of the goods. The tax authority has the right to request additional documents in proof of the export of goods.

(6) The procedure for treating goods transferred at sales facilities located in the customs control zone of an international airport open for passenger traffic as exports shall be established by a regulation of the Minister of Finance.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 6. Import of goods

(1) The import of goods means the following:

1) the placing of non-Community goods under the customs procedure of release for free circulation, the temporary importation procedure with partial relief from import duties or the inward processing procedure applying the drawback system;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

2) the placing of goods covered by the outward processing procedure under the customs procedure of release for free circulation;

3) other cases which result in a customs debt within the meaning of the Community Customs Code;

(2) The placing of non-Community goods under the customs procedure of release for free circulation is not deemed to be import if it:

1) was preceded by the placing of the goods under the temporary importation procedure with partial relief from import duties or the inward processing procedure applying the drawback system;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

2) is directly followed by the transport of the goods to a third country which is a part of the customs territory of the Community, and the goods are to remain under customs supervision until they are carried out of Estonia.

(3) The goods are deemed to be imported in Estonia if the goods are placed under the customs procedures specified in subsection (1) of this section in Estonia.

(4) The transport of goods which have been assigned customs status as being European Community goods from a third country to Estonia is also deemed to be import of goods in Estonia.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 7. Intra-Community supply of goods

(1) Intra-Community supply of goods means the following:

1) the transfer of goods to a taxable person or taxable person with limited liability of another Member State together with the transport of the goods from Estonia to the other Member State, except in the cases specified in subsection (2) of this section;

2) the transfer of excise goods or a new means of transport to a person of another Member State together with the transport of the goods or means of transport from Estonia to the other Member State;

3) the transport of goods from Estonia to another Member State for them to be used for business purposes there, including the transfer of goods between a company and its permanent establishment located in another Member State, except in the cases specified in subsection (2) of this section.

(2) The following are not deemed to be intra-Community supply of goods:

1) temporary transport of goods from Estonia to another Member State for the provision of services there, including the transport of a movable to another Member State for hiring or leasing of the movable or establishment of a usufruct on the movable;

2) temporary transport of goods from Estonia to another Member State for up to twenty-four months for purposes which comply with the purposes of applying the temporary importation procedure with total relief from import duties;

3) the transport of movables from Estonia to another Member State for the purposes of them to be used in work, including for repair, evaluation, processing or installation (hereinafter work with movable) if, after the provision of the service, the movable is returned to the taxable person in Estonia who transported the movable to the other Member State;

4) the transfer of goods to be installed or assembled in another Member State;

5) distance selling of goods from Estonia to another Member State;

6) delivery of goods to a vessel or aircraft specified in clauses 15 (3) 3) or 4) of this Act to be consumed or sold on board;

7) the transport of goods from Estonia to another Member State for the purpose of taking them out of the Community if the goods are placed under the customs procedure of export in Estonia and the goods are taken out of the Community within two months after the goods were conveyed to the other Member State;

8) the transfer of goods to the acquirer in a triangular transaction;

9) the conveyance of natural gas and electricity transmitted via network from Estonia to another Member State;

10) the transport of goods from Estonia to another Member State if the goods are transported to Estonia temporarily for up to twenty-four months for a purpose which complies with the purposes of applying the temporary importation procedure with total relief from import duties;

11) the transport of movables from Estonia to another Member State if the movables are transported to Estonia temporarily for the purpose of work with the movables.

(3) Where the grounds for a transaction or act specified in subsection (2) of this section cease to exist, the transaction shall be deemed to constitute an intra-Community supply of goods in accordance with subsection (1) of this section and the intra-Community supply of

goods shall be deemed to have been created on the date on which the grounds ceased to exist.

(4) An intra-Community supply of goods shall be certified by documents certifying the transfer of the goods and the transport of the goods to another Member State.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 8. Intra-Community acquisition of goods

(1) Intra-Community acquisition of goods is the acquisition of goods from a taxable person of another Member State together with the transportation of these goods from the other Member State to Estonia and the acquisition of a new means of transport from a taxable person of another Member State together with the transportation of that means of transport from the other Member State to Estonia, except in the cases specified in subsection (3) of this section.

(2) Intra-Community acquisition of goods also includes the transport of goods used for business purposes from another Member State to Estonia for the purpose of business being carried out in Estonia, except in the cases specified in subsection (3) of this section.

(3) The following are not deemed to be intra-Community acquisition of goods:

1) temporary transport of goods to Estonia for the provision of services, including the transport of a movable to Estonia for it to be hired or leased;

2) temporary transport of goods to Estonia for up to twenty-four months for purposes which comply with the purposes of applying the temporary importation procedure with total relief from import duties;

3) temporary transport of movables to Estonia for the purpose of work with the movables, except when the movables are transported to Estonia for the purposes of taking the movables out of the Community;

4) the acquisition of goods installed or assembled in Estonia from a taxable person of another Member State;

5) the transport of goods to Estonia for distance selling;

6) the acquisition of goods, except a new means of transport, by a natural person for personal use;

7) the acquisition of goods by a person not registered as a taxable person for a total amount not exceeding the threshold specified in subsection 21 (2) of this Act;

8) the acquisition of second-hand goods, original works of art, collectors' items or antiques from a taxable person of another Member State who applies the procedure for the calculation of taxable value provided for in § 41 of this Act when calculating the tax liabilities of that person in the other Member State;

9) the acquisition of goods by the acquirer in a triangular transaction;

10) the transport of natural gas and electricity transmitted via a network from another Member State to Estonia;

11) the transport of goods from another Member State to Estonia for the purpose of taking them out of the Community if the goods are placed under the customs procedure of export in the other Member State and the goods are taken out of the Community within two months after the goods were conveyed to Estonia;

12) the transport of goods to Estonia if the goods are transported to another Member State temporarily for up to twenty four months for a purpose which complies with the purposes of applying the temporary importation procedure with total relief from import duties;

13) the transport of movables from another Member State to Estonia if the movables were transported from Estonia to another Member State temporarily for the purposes of work with the movables.

(4) Where the grounds for an act specified in subsection (3) of this section cease to exist, the act shall be deemed to constitute intra-Community acquisition of goods in accordance with subsection (1) of this section and the intra-Community acquisition of goods shall be deemed to have been effected on the date on which those grounds ceased to exist.

(5) Intra-Community acquisition of goods also includes the acquisition of goods from a taxable person of another Member State if the taxable person uses its number of registration as a taxable person in Estonia when acquiring the goods and if the goods are transported from the Member State of the transferor to another Member State, unless the taxable person proves that:

1) value added tax on the intra-Community acquisition of goods will be paid in the Member State to which the goods are transported, or

2) the taxable person was a reseller in a triangular transaction.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

Chapter 3

GENERAL PRINCIPLES OF TAXATION

§ 9. Place of supply of goods

(1) The place of supply of goods is Estonia if:

1) the goods are transported or made available to the recipient in Estonia, are exported from Estonia or if intra-Community supply of goods is effected or distance selling takes place from Estonia to a person of another Member State who is not a taxable person or taxable person with limited liability of the other Member State, except in the case specified in subsection (2) of this section;

2) a person of another Member State engaged in business who is registered as a taxable person in Estonia engages in distance selling to a person of Estonia who is not a taxable person or a taxable person with limited liability;

3) a person of another Member State engaged in business transfers goods to be installed or assembled, and installs or assembles them in Estonia or such goods are installed or assembled in Estonia on the person's behalf;

4) the goods, including goods consumed or sold on board, are transferred on board a vessel or aircraft departing on an international route from Estonia.

5) natural gas or electricity is transferred via a network to an Estonian taxable person located in Estonia, who is a reseller;

6) natural gas or electricity transmitted via a network is transferred to the acquirer of the goods who will use the goods in Estonia. If the acquirer of the goods does not use all or a part of the goods, the unused goods are still deemed to be goods used in Estonia if the acquirer of the goods has a seat or permanent business establishment in Estonia for which the goods were transferred. This provision does not apply in the case specified in clause 5) of this subsection.

(2) The place of supply of goods is not Estonia if the taxable person:

1) is registered as a taxable person in another Member State and is engaged in distance selling to a person of that other Member State who is not a taxable person or taxable person with limited liability of another Member State;

2) transfers goods and installs or assembles the goods in another Member State;

3) transfers natural gas or electricity transmitted via a network to a reseller or another person of another Member State who will not use the goods in Estonia.

(3) For the purposes of clause (1) 5) and (2) 3) of this section, "reseller" means a person engaged in business who generally transfers the natural gas or electricity acquired thereby and uses such goods for own purposes only to an insignificant extent.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 10. Place of supply of services

(1) The place of supply of services is Estonia if the services are provided to a taxable person or taxable person with limited liability registered in Estonia or if the services are provided through a seat or permanent establishment located in 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, except in the cases specified in subsections (2), (4) and (5) of this section.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) The place of supply of services is Estonia if:

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

[RT I 2009, 56, 376 – entered into force 1.01.2010]

2) cultural, artistic, sporting, educational, scientific or entertainment services or services connected with trade fairs or exhibitions are provided in Estonia. The services also include the organisation of related events and provision of ancillary services;

[RT I 2009, 56, 376 – entered into force 1.01.2010] Applicable until 31.12.2010.

2) cultural, artistic, sporting, educational, scientific or entertainment services or services connected with trade fairs or exhibitions are provided in 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. The services also include the organisation of related events and provision of ancillary services;

[RT I 2009, 56, 376 – entered into force 1.01.2011]

$2^{1)}$ 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 Estonia to a taxable person or taxable person with limited liability of another Member State or who is not a third country person engaged in business;

[RT I 2009, 56, 376 – entered into force 1.01.2011]

3) services for the carriage of passengers, including the carriage of their personal luggage and personal means of transport, are provided in Estonia;

4) restaurant and catering services are provided in Estonia, except in the cases specified in clause 5) of this subsection and in clause (4) 5) of this section;

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 Estonia;

6) means of transport are hired or leased or a usufruct is established thereon in Estonia on a short-term basis;

7) work is performed with movables located in Estonia or movables located in Estonia 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;

8) transport services for goods are provided in Estonia, 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. This provision does not apply to the cases provided in clause 9) of this subsection and clause (4) 6) of this section;

9) transport services for goods from Estonia to another Member State 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;

10) ancillary services related to transport of goods are provided in 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;

11) 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 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.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(3) The place of supply of services is Estonia also if a third country person engaged in business who is not registered as a taxable person in any of the Member States provides electronic communications services or electronically supplied services to a natural person of Estonia for personal use.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) The place of supply of services is not Estonia if:

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;

[RT I 2009, 56, 376 – entered into force 1.01.2010]

2) cultural, artistic, sporting, educational, scientific or entertainment services or services connected with trade fairs or exhibitions are provided in a foreign country. The services also include the organisation of related events and provision of ancillary services;

[RT I 2009, 56, 376 – entered into force 1.01.2010] Applicable until 31.12.2010.

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;

[RT I 2009, 56, 376 – entered into force 1.01.2011]

$2^{1)}$ 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;

[RT I 2009, 56, 376 – entered into force 1.01.2011]

3) work is performed with movables located in a foreign country or movables located in a foreign county 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) services for the carriage of passengers, including the carriage of their personal luggage and personal means of transport, are provided outside Estonia;

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;

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;

9) services are provided in the cases not specified in clauses 1)-8) and subsection (2) of this section through a seat or permanent 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.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(5) The place of supply is not Estonia if a taxable person provides to a third country person not engaged in business the following services:

1) grant of the use of intellectual property or transfer of the right to use intellectual property;

2) advertising services;

3) services of consultants, accountants, lawyers, auditors and engineers, and translation services, as well as data processing and the supplying of information;

4) financial services, except for leasing safes, or insurance services, including reinsurance and insurance intermediation services;

5) allowing use of manpower;

6) the hiring or leasing of or establishment of a usufruct on movables, except means of transport;

7) electronic communications services, including assignment of rights to use transmission lines;

8) electronically supplied services;

9) allowing access to natural gas and electricity network connections, and transmission of natural gas or electricity through networks and services directly related thereto;

10) transfer of permitted limit values of emissions of greenhouse gases regulated by the Ambient Air Protection Act;

11) refraining from the services specified in clauses 1)-10) of this subsection, waiving the exercise of a right or tolerating a situation for a charge.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(6) For the purposes of this section, "means of transport" means a vehicle, aircraft, vessel or other means of transport with a code in the Combined Nomenclature (hereinafter CN-code) established by Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.09.1987, pp. 1–675) beginning with the numbers 86, 87, 88 or 89.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(7) For the purposes of this section, a means of transport, except a vessel, is deemed to have been hired or leased or a usufruct is deemed to have been established thereon on a short-term basis if the service is provided within a period not longer than 30 calendar days. A vessel is deemed to have been hired or leased or a usufruct is deemed to have been established thereon on a short-term basis if the service is provided within a period not longer than 90 calendar days.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(8) Ancillary transport services include the loading, unloading, handling and warehousing of goods within the framework of carriage, as well as insurance, the preparation and obtaining of documents relating to goods and the completion of customs formalities.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 11. Time of supply, import of goods, receipt of services and intra-Community acquisition of goods

(1) The time of supply or the time of receipt of services is deemed to be the date on which the first of one of the following acts is performed:

1) the goods are dispatched or made available to the purchaser, or the services are provided;

2) full or partial payment is received for the goods or services or, in the case of the receipt of services, full or partial payment is made;

3) in the case of self-supply, the transfer of goods or provision of services or putting the goods of an enterprise into service by a taxable person or an employee, servant or a member of the management or control body of the person or for purposes other than business.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(2) Intra-Community supply is created or intra-Community acquisition of goods is effected on the fifteenth day of the month following the month in which the goods obtained by intra-Community acquisition of goods are dispatched or made available or on the date on which an invoice is issued for the goods if the invoice is issued prior to the fifteenth day of the month following the month in which the goods are dispatched or made available to the purchaser, except in the cases specified in subsections 7 (3) and 8 (4) of this Act.

(3) If, according to subsection (1) of this section, the time of supply is the time at which full or partial payment is received or made for the goods or services, supply is deemed to have been effected in the amount of the payment. Receipt of a grant for the transfer of goods or services for a price lower than their usual value shall not be considered as receipt of payment for the goods or services.

(4) If the provision of services continues for longer than a period of taxation, the services are deemed to have been provided and received during the taxable period in which the provision of the services terminates. In the case of provision of services or regular transfers of goods to the same purchaser, the time at which the goods are dispatched or made available to the purchaser or the time at which the services are provided and received is deemed to be the taxable period overlapping with the end of the period of time for which an invoice is submitted or during which payment for goods or services received is to be made as agreed, but not later than after twelve calendar months. Upon regular provision of service, in the case of which a tax liability arises for the recipient of the service, within a longer period of time than one year, the supply of the service shall be deemed to have been created as of the commencement of the provision of the service on 31 of December of the following calendar year if the services have not been paid for and the provision of the services has not been completed within the period.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(5) If any of the acts specified in subsection (1) of this section are performed before the obligations of a taxable person (§ 24) arise, the taxable person is required to calculate value added tax on the taxable value of the transaction only if the goods are dispatched or made available to the purchaser or the services are provided during the period in which such obligations apply to the taxable person.

(6) Upon the import of goods, the time of import is, in the cases specified in clauses 6 (1) 1) and 2) of this Act, the date of release of the goods within the meaning of the Community Customs Code or, in the cases specified in clause 6 (1) 3), the date on which the customs debt is incurred or, in the case specified in subsection 6 (4), the date on which the goods are transported to Estonia.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(7) The supply of returnable packaging on which a deposit has been established pursuant to the Packaging Act which is not included in the taxable value of the goods and which is not returned to the producer who is a taxable person within a calendar year is deemed to be effected on 31 December. The supply shall be equal to the sum total of the deposits of returnable packages not returned during a calendar year.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 12. Taxable value of supply, intra-Community acquisition of goods and services received

(1) The taxable value of supply or the taxable value of the intra-Community acquisition of goods and services received is comprised of the sales price of the goods or services and anything else which is deemed to be fee that the transferor of the goods or the provider of the services has received or will receive from the purchaser of the goods, the recipient of the services or a third party for the goods or services. This provision does not apply to cases specified in subsections (3), (6), (7), (10), (13) and (14) of this section.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(2) Grants allocated to a taxable person for the transfer of goods or services for a price lower than their usual value shall be included in the taxable value. The procedure for including grants in taxable value and for the taxation thereof shall be established by a regulation of the Minister of Finance.

(3) In the case of the transfer of goods without charge and intra-Community acquisition of goods without charge as well as the transport of goods to another Member State which is deemed to be intra-Community supply (clause 7 (1) 3)), the taxable value shall be the value determined on the basis of the purchase price or, in the absence thereof, the cost price of the goods or other similar goods during the performance of the aforementioned acts.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

($3^{1)}$ [Repealed – RT I 2008, 58, 324 – entered into force 1.01.2009]

(4)–(5) [Repealed – RT I 2008, 58, 324 – entered into force 1.01.2009]

(6) In the case of self-supply, the taxable value shall be the purchase price or, in the absence thereof, the cost price of the goods or the cost price of the services, except in the case specified in subsection (7) of this section.

(6^{1}) Taxable value shall also include other amounts, including accessory expenses, fees and taxes, except value added tax payable in Estonia or a foreign country that the transferor of the goods or the provider of the services requires from the acquirer of the goods or the recipient of the services with regard to the transaction.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(7) Where the use of an automobile of the employer free of charge or at a preferential price for activities not related to employment or service duties or to the employer's business constitutes self-supply, the taxable value of such supply is the price of the fringe benefit calculated pursuant to subsection 48 (8) of the Income Tax Act with value added tax.

(8) Taxable value shall not include price discounts allowed to the customer if such discounts are applied for commercial purposes at the time of selling the goods or providing the services. Neither shall the interest payable upon the transfer of the goods be included in the taxable value of the supply of the goods.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(9) Taxable value shall not include the amounts received from the purchaser of goods or the recipient of services as repayment for expenses incurred in the name and for the account of the purchaser or recipient which are entered in the books in a suspense account. Proof of the actual amount of this expenditure must be furnished. A taxable person shall not deduct the input value added tax included in the expenses paid out in the name and for the account of the purchaser of goods or the recipient of services.

(10) The taxable value of a factoring service shall be the contract fee and the fee for handling the accounts.

(11) The value of returnable packaging specified in subsection 11 (7) of this Act is not included in the taxable value of goods if the producer who is a taxable person does not transfer the returnable packaging.

(12) Deposits established on packaging pursuant to the Packaging Act are not included in the taxable value of goods.

(13) In the case of termination of the tax warehousing of goods without transfer of the goods (clause 3 (6) 5)), the taxable value shall be the purchase price or the cost price of the goods, or the usual value of the goods if this is lower than the purchase price 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 at the time of placing such goods in the tax warehouse.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

(14) If goods are transferred or services provided to related persons for the purposes of the Income Tax Act, the taxable value shall be the market value provided that the fee payable for the transfer of the goods or provision of the services is:

1) lower than the market value and the acquirer of the goods or the recipient of the services has no right for deduction of input value added tax in full;

2) lower than the market value and the transferor of the goods or the provider of the services has no right for deduction of input value added tax in full and the transfer of the goods or the provision of the service is supply exempt from tax;

3) higher than the market value and the transferor of the goods or the provider of the services has no right for deduction of input value added tax in full.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(15) Subsection (14) of this section shall be applied to prevent tax evasion or tax avoidance. The aforementioned subsection shall also be applied in the case of intra-Community acquisition of goods.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(16) For the purposes of this Act, "market value" means the total amount that the acquirer of the goods or the recipient of the services should pay under the terms of free competition for the acquisition of the goods and the receipt of the services at the same marketing stage, when the goods are transferred or the services provided, to an independent transferor of the goods

or provider of the services in a Member State where the transfer of the goods or the provision of the services is taxed.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(17) If no comparable transfer of goods or provision of services is found, the market value shall be:

1) in the case of goods an amount that is not lower than the purchase price of the goods or similar goods or, in the absence thereof, the cost price thereof, which shall be determined during the transfer of the goods or the provision of the services;

2) in the case of services an amount that is not lower than the total costs of the taxable person in the provision of the services.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

§ 13. Taxable value of imported goods

(1) The taxable value of imported goods, except in the cases specified in subsections (3)-(6) of this section, is comprised of the customs value of the goods according to the Community Customs Code and all duties payable upon import (hereinafter import duties), as well as other costs related to the carriage of the goods to destination, such as commission, packing, transportation and insurance costs which have not been included in the customs value, up to the first place of destination in the territory of Estonia.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

(2) The first place of destination in the territory of Estonia is the place indicated on the accompanying documents or other documents on the basis of which the goods are imported. If this is not indicated, the first place at which the goods are loaded in the territory of Estonia is deemed to be the first place of destination.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) If a traveller imports goods in excess of the value added tax-free cost limit, the taxable value of the imported goods is comprised of the purchase price of the goods and all import duties. The traveller shall prove the purchase price on the basis of the payment documents. If such documents are missing or the customs authorities have reason to believe that the declared value does not correspond to the price actually paid, the customs authorities shall determine the customs value using other customs valuation methods specified in the Community Customs Code.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(4) If goods conveyed into the customs territory are imported after being assigned a different customs-approved treatment or use, the taxable value of the imported goods shall not be less than the taxable value of the imported goods had the goods been imported directly after having been conveyed into the customs territory. If a lower taxable value is declared upon import of the goods after being assigned a different customs-approved treatment or use, the customs authorities shall determine the customs value of the goods using the customs valuation methods specified in Articles 30 and 31 of the Community Customs Code.

(5) In the case of the import of goods covered by the outward processing procedure into the Community by the person who exported the goods from the Community, the taxable value is comprised of the value added during such processing and the loading, packing, transportation and insurance costs added to the price of the goods, including all import duties. Under the standard exchange system, the taxable value of the replacement product shall be determined pursuant to the provisions of subsection (1) of this section and it shall not be less than the taxable value of the exported goods.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(6) Where goods are transported into Estonia from a third country which is part of the Community customs territory (subsection 6 (4)), the taxable value of the goods shall be determined pursuant to the provisions of § 12 of this Act.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

(7) The tax established by this Act is not included in the taxable value of imported goods.

§ 14. Taxable value of exported goods

(1) In the case of export, the taxable value of the goods shall be determined pursuant to the provisions of § 12 of this Act but, in the case of the transfer of goods for a price higher than their usual value, the usual value of the goods is deemed to be the taxable value of the goods.

(2) Upon the re-export of goods brought to Estonia under the inward processing procedure applying the suspension system, the taxable value shall not include the value of the goods imported for processing, and upon prior export the taxable value of compensating products produced from equivalent goods shall be determined pursuant to the provisions of § 12 of this Act.

§ 15. Value added tax rates

(1) The rate of value added tax shall be 20 per cent of the taxable value, except in the cases provided for in subsections (2)-(4) of this section.

[RT I 2009, 35, 232 – entered into force 1.07.2009]

(2) The rate of value added tax on the following goods and services shall be 9 per cent of the taxable value:

1) books and work exercise-books used as learning materials, excluding learning materials specified in clause 16 (1) 6) of this Act;

2) medicinal products, contraceptive preparations, sanitary and toiletry products, and medical equipment or medical devices intended for the personal use of disabled persons within the meaning of the Social Welfare Act and specified in the list established by a regulation of the Minister of Social Affairs, and the grant of the use of such medical devices to disabled persons;

3) periodic publications, excluding publications mainly containing advertisements or personal announcements, or publications the content of which is mainly erotic or pornographic;

4) accommodation services or accommodation services with breakfast, excluding any goods or services accompanying such services;

[RT I 2008, 51, 283 – entered into force 1.01.2009]

(3) The rate of value added tax on the following goods shall be 0 per cent of the taxable value:

1) exported goods, excluding cases where the supply of such goods is exempt from tax pursuant to § 16 of this Act;

2) goods where their transfer and transport to another Member State or transport to another Member State without transfer is deemed to be intra-Community supply of goods. This provision does not apply in cases where the supply of goods is exempt from tax pursuant to § 16 of this Act or the acquirer of the goods, except for new means of transport or excise goods, or the transferor of own goods to another Member State has no valid number of registration as a taxable person or taxable person with limited liability issued in the other Member State;

3) sea-going vessels navigating in international waters, except pleasure craft used for purposes other than those of business interests, and equipment, spare parts, fuel and other supplies used on such sea-going vessels and goods to be transferred to passengers for consumption on board, except goods sold on board sea-going vessels during intra-Community passenger transport to be taken away;

4) aircraft used by an air carrier operating mostly on international routes and equipment, spare parts, fuel and other supplies used on such aircraft and goods to be transferred to passengers for consumption on board, except goods sold on board of such aircraft during intra-Community passenger transport to be taken away;

5) goods transferred and transported to another Member State to a diplomatic representative, a consular agent (except an honorary consul), a representative or representation of a special mission or an international organisation recognised by the Ministry of Foreign Affairs, a diplomatic representation or consular post, a special mission or a Community institution;

6) goods transferred and transported to another Member State which is a Member State of the North Atlantic Treaty Organisation (hereinafter NATO) and intended either for the use of the armed forces of any other NATO Member State or the civilian staff accompanying them, or for supplying their messes or canteens when such forces take part in the common defence effort;

7) non-Community goods (as defined in the Community Customs Code) placed in a free zone or free warehouse, where such goods have not been placed under any customs procedure and have not been consumed or used under conditions other than those prescribed by the customs rules;

8) non-Community goods placed in a free zone or free warehouse or other non-Community goods, placed under the customs warehousing procedure, the inward processing procedure applying the suspension system, the transit procedure or the temporary importation procedure with total relief from import duties, and non-Community goods in temporary storage on the

condition that the goods have not been unlawfully removed from under customs supervision or consumed or used under conditions other than those prescribed in the customs rules;

9) Community goods transferred and transported to a free zone or free warehouse for export purposes and Community goods placed in a free zone or free warehouse which are exported within two months as of transportation to the free zone or free warehouse.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

10) gold transferred to Eesti Pank;

11) the goods specified in Annex V to Council Directive 2006/112/EC if the goods are immediately placed in a tax warehouse or have been placed in a tax warehouse (§ 44^1) and the transaction does not involve termination of tax warehousing;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

12) excise goods placed in an excise warehouse if the transaction does not involve taking the goods out of the excise warehouse, except transporting the excise goods from one excise warehouse to another.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) The rate of value added tax on the following services shall be 0 per cent of the taxable value:

1) services where the place of supply is not Estonia, excluding cases where the supply of such services is exempt from tax pursuant to § 16 of this Act;

2) the provision of services necessary for the journey to passengers on board vessels or aircraft during the international transport of passengers;

3) the provision of port services to meet the direct needs of vessels navigating international waters;

4) the provision of navigation services and airport services to meet the direct needs of aircraft used mostly on international routes;

5) [Repealed – RT I 2005, 68, 528 – entered into force 1.01.2006]

6) the repair, maintenance, chartering and hiring of or establishment of a usufruct on sea-going vessels navigating in international waters, except pleasure craft used for purposes other than business, and aircraft used by an air carrier operating mostly on international routes, and the repair, maintenance and hiring of or establishment of a usufruct on equipment used on such vessels or aircraft;

7) intermediation, if the place of supply of the transaction being mediated is a third country, or the goods being mediated are the goods specified in clauses (3) 1), 3)-6) or 10) of this subsection, or the services being mediated are the services specified in clauses 2)-4), 6), 9), 10) 12) or 14) of this subsection;

8) transport service for goods placed under an external transit procedure, services for the organisation of such transport of goods and ancillary services related to such transport of goods if the carriage is a part of the carriage which begins or ends in a third country;

9) transport services for the export of goods, services for the organisation of transport of goods and ancillary services related to such transport of goods;

10) transport services for the import of goods, services for the organisation of transport of goods and ancillary services related to such transport of goods, if the cost of such services is included in the taxable value of the goods to be imported;

11) carriage of goods to the Azores or Madeira or from the Azores or Madeira to Estonia or another Member State;

12) work with movables which are acquired from Estonia or brought to Estonia for the purpose of provision of such service and which are taken out of the Community after the service has been provided;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

13) carriage of passengers specified in clause 10 (2) 3) of this Act, including their personal luggage and personal means of transport, if the carriage of passengers in Estonia constitutes a part of international transport of passengers;

[RT I 2009, 56, 376 – entered into force 1.01.2010]

14) services provided to persons, representations, agencies, special missions, Community institutions or armed forces located in a foreign state and specified in clause (3) 5) or 6) of this section.

(5) Provision of services with the 0 per cent value added tax rate shall be certified by a contract concluded for the provision of such service, a written order, invoice or other document in proof of the provision of the service. The tax authority has the right to request additional documents in proof of the provision of the service.

($5^{1)}$ In the cases specified in clauses (3) 5) and 6) and clause (4) 14) of this section, the document in proof of the provision of a service with the 0 per cent value added tax rate shall be the value added tax and excise duty exemption certificate established by Commission Regulation 31/96/EC on the excise duty exemption certificate (OJ L 8, 11.01.96, pp. 11–15).

(6) Regardless of the provisions of clause (3) 1) of this section, tax exemption is applied instead of the 0 per cent value added tax rate in the following cases:

1) export of similar goods replacing goods which were returned to Estonia after export (within the meaning of the Community Customs Code) if the goods to be replaced were returned to Estonia under a tax exemption on the basis of subsection 17 (2) of this Act;

2) export of goods imported into Estonia under the 0 per cent value added tax rate on the basis of subsection (3) of this section or under a tax exemption on the basis of § 17 of this Act.

($6^{1)}$ Regardless of the provisions of clause (4) 1) of this section, tax exemption is applied instead of the 0 per cent value added tax rate to services whose place of supply is another

Member State if, upon provision of the service, the taxable person uses the number of registration of the person as a taxable person in another Member State.

(7) [Repealed – RT I 2009, 46, 307 – entered into force 16.09.2009] – applied retroactively as of 1.07.2009

§ 16. Supply exempt from tax

(1) 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 pursuant to the procedure prescribed by the State Pension Insurance Act by means of post;

2) health services within the meaning of the Health Insurance Act and the supply of human organs, human tissue, human blood, blood product made from human blood, and breast milk, as specified in the list approved by a regulation of the Minister of Social Affairs;

$2^{1)}$ service provided by dental technicians in their professional activities and dentures transferred by dentists and dental technicians;

[RT I 2007, 17, 83 – entered into force 1.03.2007]

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 to natural persons relating to the use of sports facilities or sports equipment;

4) the social services specified in clauses 10 1), 1^1), 1^2), 1^3), 1^4), 1^5), 1^6) 3), 4), 5), 5^1) and 6) of the Social Welfare Act or the social services specified in clause 10 2^1) and financed out of the state or local government budget;

[RT I 2008, 58, 329 – entered into force 1.01.2009]

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 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;

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.

8) services provided by independent associations of persons to their members provided that the following conditions are met: the supply of the recipient of the services is 90 per cent exempt from tax or the activities thereof are not subject to value added tax; the service is directly necessary for the main activity of the member and the fee paid for the service does not exceed the costs incurred upon the provision of the service.

(2) Value added tax shall also not be imposed on the supply of the following goods and services:

1) insurance services, including reinsurance and insurance mediation;

2) the leasing or letting of immovables or parts thereof, establishment of a usufruct on immovables or parts thereof. Tax exemption is not applied on the provision of accommodation services, the leasing or letting of or establishment of a usufruct on multi-storey car parks and premises for parking vehicles, and the hiring or leasing of or establishment of a usufruct on permanently installed equipment or machinery or safes;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

3) immovables or parts thereof. Tax exemption is not applied to an immovable if an essential part thereof is a construction works within the meaning of the Building Act, or a part of a construction works which is to be transferred prior to the commencement of use of the construction works; or to an immovable if an essential part thereof is a construction works which has been significantly improved, or a part of such construction works which is to be transferred prior to the post-improvement resumption of use of the construction works or the part thereof, and to a lot within the meaning of the Planning Act if the lot does not contain any construction works. A construction works or a part thereof is deemed to be significantly improved if the costs related to the improvements exceed at least 10 per cent of the acquisition value of the construction works or the part thereof before the making of the improvements;

4) valid postal payment means of the Republic of Estonia if sold at their nominal value;

5) [Repealed – RT I 2008, 58, 324 – entered into force 1.01.2009]

6) securities, except securities or holdings, which grant the holders thereof the right of ownership of the immovables or parts thereof specified in the second sentence of clause (2) 3) of this section or the right to use and dispose of the aforementioned as an owner;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

7) lottery tickets and the organisation of gambling, except the organisation of commercial lotteries and the organisation of such games of skill the only possible prize of which is the possibility to participate again in the same game;

[RT I 2009, 24, 146 – entered into force 1.06.2009]

8) investment gold, services relating to the transfer of investment gold or entry into a corresponding transfer agreement, or services relating to the supply thereof which are provided by an agent acting in the name and for the account of another person;

9) goods, upon the acquisition of which there was no right for deduction of input value added tax, unless the goods were acquired before the registration of the acquirer as a taxable person or if, at the time of acquisition of the goods, the input value added tax had been deducted in part.

(2[1)] Value added tax shall not be imposed on the supply of the following financial services:

1) deposit transactions for the receipt of deposits and other repayable funds from the public;

2) borrowing and lending operations, including consumer credit, mortgage credit and other transactions for financing business transactions;

3) leasing transactions;

4) settlement, cash transfer and other money transmission transactions;

5) issue and administration of non-cash means of payment, incl. electronic payment instruments, traveller's cheques, bills of exchange;

6) guarantees and commitments and other transactions creating binding obligations to persons;

7) transactions for their own account or for the account of clients in traded securities provided for in § 2 of the Securities Market Act and in foreign exchange and other money market instruments, including transactions in cheques, exchange instruments, certificates of deposit and other such instruments;

8) transactions and acts related to the issue, sales and purchase of securities;

9) money broking;

10) negotiation services related to the services specified in clauses 1)–9) of this section;

11) management of investment funds provided for in the Investment Funds Act and other investment funds of a Contracting Party to the EEA Agreement and subject to financial supervision, incl. the provision of services related to the management of funds to the funds in the case of transfer of duties of a management company.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) A taxable person shall add value added tax to the taxable value of the following goods and services if the person has, during the same taxable period or earlier, notified the regional structural unit of the tax authority (hereinafter tax authority) thereof in writing before the supply is effected:

1) the leasing or letting of immovables or parts thereof, except dwellings, and establishment of a usufruct on immovables or parts thereof;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

2) immovables and parts thereof, except dwellings;

3) a service specified in clause (2) 6) and subsection (2^1) of this section, except in cases where the service is provided to a taxable person or taxable person with limited liability of another Member State;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

4) investment gold transferred to a taxable person by a taxable person who, during the business thereof, normally supplies gold for industrial purposes or by a taxable person who produces investment gold or transforms any gold into investment gold, and services relating

to such supply which are provided by an agent acting in the name and for the account of another person.

(4) If a taxable person adds value added tax to the taxable value of services pursuant to subsection (3) of this section, such supply shall be taxed for at least two years as of the first taxable period.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(5) Value added tax shall not be imposed on the supply of the goods and services specified in subsections (1) and (2) of this section which are deemed to constitute supply of electronically supplied services.

§ 17. Imports exempt from tax

(1) Value added tax shall not be imposed on the import of the following goods:

1) goods the supply of which is exempt from tax (§ 16);

2) gold imported by Eesti Pank;

3) banknotes and coins;

4) revenue stamps;

5) natural gas and electricity imported through networks;

6) goods subject to immediate tax warehousing;

[RT I 2009, 56, 376 – entered into force 1.01.2010]

7) tobacco products and alcohol transported from a third country to Estonia in the personal luggage of passengers within the excise duty free limits as provided for in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act;

[RT I 2008, 58, 324 – entered into force 31.12.2008] – applied retroactively as of 1.12.2008

8) goods of a non-commercial nature not specified in clause (1) 7) of this section that have been transported from a third country to Estonia in the personal luggage of passengers in the amount of 4,694 kroons and in the case of using air and sea transport, except private pleasure flying or private pleasure seafaring, in the amount of 6,728 kroons. If the total value of the goods exceeds the aforementioned limit, the value of the goods exceeding the limit shall be subject to value added tax in full;

[RT I 2008, 58, 324 – entered into force 31.12.2008] – applied retroactively as of 1.12.2008

9) consignment with a value of up to 344 kroons, which is sent from a third country to a recipient located in Estonia. Tax exemption is not applied to alcohol, tobacco products, perfume and toilet water.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) The import of goods specified in Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty (OJ L 105, 23.04.1983, pp. 1–37), except in

Articles 27, 28, 50, 52–59b, 63a and 63b, is not subject to value added tax under the conditions prescribed for entitlement to customs duty relief. The import of goods with customs preferences specified in Title 6 Chapter 2 of the Community Customs Code is not subject to value added tax if the goods are reimported by the person who exported the goods. The import of the said goods shall not be subject to value added tax even in the case of import as specified in subsection 6 (4) of this Act if it meets the requirements prescribed for entitlement to customs duty relief.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

($2^{1)}$ Value added tax shall not be imposed on the import of goods upon the placing of non-Community goods under the customs procedure of release for free circulation, provided that the following conditions are met:

1) the importer of the goods is an Estonian taxable person;

2) immediately after the goods have been imported, they are transported, in the same condition, to another Member State where such goods will be received by a taxable person or a taxable person with limited liability of the other Member State;

3) intra-Community supply is created as a result of transport of the goods to another Member State;

4) upon import of the goods, the importer confirms the intention to transport the goods to another Member State where such goods will be received by a taxable person or a taxable person with limited liability registered by the other Member State and, after the goods have been transported, provides the customs authority with documentation in proof of the intra-Community supply of the goods;

5) a security is provided in order to secure the performance of the tax liability which may arise as a result of failure to perform the tax obligation provided in this subsection. The security shall be given, released, used and calculated pursuant to the procedure provided by the customs rules.

(3) Value added tax shall also not be imposed on the import of the following goods:

1) books, periodicals or other data media sent to libraries or to research, development or educational institutions;

2) confiscated counterfeit clothes and footwear transferred to state or local government health care or social welfare institutions pursuant to law.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 18. Intra-Community acquisition of goods which is exempt from tax

Value added tax shall not be imposed on the following:

1) intra-Community acquisition of goods the supply of which is exempt from tax (§ 16);

2) intra-Community acquisition of goods the import of which is exempt from tax (§ 17);

3) intra-Community acquisition of goods by a foreign taxable person, if the conditions for the refund of value added tax provided for in subsection 35 (1) of this Act are met;

4) intra-Community acquisition of goods by a taxable person of another Member State in the case of a triangular transaction;

5) intra-Community acquisition of goods, if the goods are subject to immediate tax warehousing (§ 44^1).

[RT I 2005, 68, 528 – entered into force 1.01.2006]

Chapter 4

RIGHTS AND RESPONSIBILITIES OF TAXABLE PERSONS

§ 19. Obligation to register as taxable person

(1) If the taxable supply of the transactions specified in clauses 1 (1) 1) and 3) of this Act, except the transfer of fixed assets and distance selling to a person of Estonia, carried out by a person exceeds 250,000 kroons as calculated from the beginning of a calendar year, an obligation to register as a taxable person (hereinafter registration obligation) shall arise for the person as of the date on which the supply reaches that amount. The registration obligation does not arise if all the taxable supply of the person is supply taxable at the 0 per cent value added tax rate, unless it is intra-Community supply of goods.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(2) If data concerning a taxable person are deleted from the register on the basis of an application specified in subsection 22 (1) of this Act and if, as of the date following the date of deletion from the register, the taxable supply of the transactions specified in clauses 1 (1) 1) and 3) of this Act carried out by the person exceeds 250,000 kroons during the same calendar year, the registration obligation shall arise for the person again as of the date on which the supply reaches that amount.

(3) If a foreign person engaged in business with no permanent establishment in Estonia creates taxable supply in Estonia and such supply is not taxed in Estonia upon the acquisition of goods or receipt of services by a taxable person or taxable person with limited liability, the registration obligation shall arise for the person as of the date on which the taxable supply is created. The registration obligation does not arise upon distance selling to a person of Estonia, or if all the taxable supply of the person is supply taxable at the 0 per cent value added tax rate, unless it is intra-Community supply of goods. The registration obligation does not arise for a third country person engaged in business upon provision of electronically supplied services if the person has been registered in another Member State according to the special arrangements for imposing value added tax on electronically supplied services (§ 43).

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) If a taxable person of another Member State is engaged in distance selling to a person of Estonia (excluding distance selling of excise goods) and the taxable value of the supply of the distance selling exceeds 550,000 kroons as calculated from the beginning of a calendar year, the registration obligation shall arise for the person as of the date on which the supply reaches the specified amount.

(5) If a taxable person of another Member State is engaged in the distance selling of excise goods to a natural person of Estonia for personal use, the registration obligation shall arise for the taxable person as of the date on which the supply of the distance selling of excise goods is created.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 20. Registration as taxable person

(1) A person is required to submit an application for registration as a taxable person to the tax authority within three working days as of the date on which the registration obligation arises. A person may submit an application for registration as a person liable to value added tax through the information system of the commercial register in a digitally signed format or apply to a notary for the preparation of an application and submission thereof through the information system of the e-notary.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(2) A person may submit an application for registration as a taxable person to the tax authority even if the registration obligation has not yet arisen for the person.

(3) The tax authority shall register a person as a taxable person by entering the data concerning the person in the register of taxable persons (hereinafter registration) as on the date on which the registration obligation arose, within three working days as of the receipt of the application.

(4) In the case of an application submitted pursuant to subsection (2) of this section, the tax authority shall register the person as a taxable person within three working days as of the receipt of the relevant application either as on the date of receipt of the application or a later date as desired by the applicant.

($4^{1)}$ In order to be registered, the person shall furnish proof of the fact that the person is engaged in business in Estonia or is about to commence business in Estonia. If the proof provided concerning the person's business or commencement of business is insufficient, the tax authority has the right to request that the person submit additional proof or collect such proof on its own initiative. The tax authority shall decide on registration within three working days after receipt of the proof. The tax authority shall not register the person if the person is neither engaged in business nor about to commence business.

(5) The tax authority shall notify the person about the decision on registration not later than on the working day following the date on which the decision is made.

(6) A person of another Member State engaged in business with no permanent establishment in Estonia has the right to appoint, upon registration as a taxable person, a tax representative specified in the Taxation Act who has been approved by the tax authority. A person of a third country engaged in business with no permanent establishment in Estonia shall appoint, upon registration as a taxable person, a tax representative specified in the Taxation Act who has been approved by the tax authority. This provision does not apply in the case specified in subsection 43 (11) of this Act.

(7) Upon submission of an application for registration, a natural person or the representative of a legal person or a state, rural municipality or city authority shall identify

himself or herself. An authorised representative shall present, in addition, a document certifying his or her authority.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(8) If a person of another Member State engaged in business transfers goods by distance selling to a person of Estonia (excluding distance selling of excise goods) and wishes that the distance selling be taxed in Estonia before the registration obligation arises and wishes to register as a taxable person pursuant to subsection (2) of this section, the person shall submit written confirmation from the competent authorities of the person's home country that the authorities are aware of such registration.

(9) If a taxable person is engaged in distance selling to a person of another Member State (excluding distance selling of excise goods) and wishes that the distance selling be taxed in that Member State before the limit on distance selling established in that Member State is exceeded and wishes to be registered as a taxable person of that Member State, the person shall notify the tax authority of such wishes in writing thirty days before the tax liability transfers to the other Member State. The tax authority shall issue written confirmation stating that the tax authority is aware of the person's wishes to commence payment of tax for distance selling carried out in another Member State in that Member State.

(10) If the tax authority has information indicating that the registration obligation has arisen for a person but the person has not submitted a registration application on time, the tax authority shall register the person on its own initiative as on the date on which the registration obligation arose. The tax authority shall notify the person of the decision to register the person within three working days as of the date on which the decision is made.

(11) If, following the registration of a taxable person, the tax authority ascertains that the application was submitted later than prescribed and the person should have commenced performance of the obligations of a taxable person (§ 24) before the date specified in the decision of the tax authority, the tax authority shall repeal its original decision retroactively, make a new decision and register the taxable person as on the date on which the registration obligation arose. The tax authority shall notify the person of the decision to register the person within three working days as of the date on which the decision is made.

(12) The format of applications for registration of a person as a taxable person and the format of decisions of the tax authority concerning the registration of a taxable person shall be established by a regulation of the Minister of Finance.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 21. Registration as taxable person with limited liability

(1) For an Estonian person or a foreign person operating in Estonia through a permanent establishment who receives a service specified in subsection 10 (5) of this Act from a foreign person engaged in business who is not registered as a taxable person in Estonia, the obligation to register as a taxable person with limited liability shall arise as of the date on which such service was received. This provision does not apply to taxable persons and natural persons who are not engaged in business.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) If the taxable value of the goods acquired by a person by way of intra-Community acquisition (§ 8), except excise goods and new means of transport, exceeds 160,000 kroons as calculated from the beginning of a calendar year, the obligation to register as a taxable person with limited liability shall arise for the person as of the date on which that threshold was exceeded, except in the case specified in subsection (2^1) of this section. This provision does not apply to taxable persons and natural persons who are not engaged in business.

($2^{1)}$ If a foreign person engaged in business who has no permanent establishment in Estonia engages in intra-Community acquisition of goods in Estonia, the obligation to register as a taxable person with limited liability arises for the person as of the date of the intra-Community acquisition of the goods. This provision does not apply to Intra-Community acquisition of goods which is exempt from tax (§ 18).

(3) A person is required to submit an application for registration as a taxable person with limited liability to the tax authority within three working days as of the date on which the obligation to register as a taxable person with limited liability arises.

(4) A person may submit an application for registration as a taxable person with limited liability to the tax authority before the registration obligation specified in subsections (1)-(3) of this section arises.

(5) The provisions of § 20 of this Act concerning the registration of taxable persons apply to the registration of taxable persons with limited liability.

(6) The format of applications for registration of a person as a taxable person with limited liability and the format of decisions of the tax authority concerning the registration of a taxable person with limited liability shall be established by a regulation of the Minister of Finance.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 22. Deletion of taxable person from register

(1) If a person is registered as taxable person but the taxable supply of the transactions specified in clauses 1 (1) 1) and 3) of this Act carried out by the person will not exceed, within the next twelve months and according to the calculations of the taxable person, the threshold specified in subsection 19 (1) of this Act, the person may submit an application to the tax authority for deletion of the person from the register, except in the case specified in subsection (2) of this section.

(2) If a person of another Member State engaged in business transfers goods by distance selling to a person of Estonia (excluding distance selling of excise goods) was registered as a taxable person pursuant to subsection 20 (2) of this Act before the registration obligation arose and the person has been registered as a taxable person for at least two years and if the taxable supply of the transactions specified in clauses 1 (1) 1) and 3) of this Act carried out by the person did not exceed during the previous calendar year and will not exceed during the current calendar year, according to the calculations of the taxable person, the threshold specified in subsection 19 (1) or (2) of this Act, the person may submit an application to the tax authority for deletion of the person from the register.

(3) The tax authority has the right to delete a taxable person from the register if the taxable person has failed to submit a value added tax return for the last six consecutive taxable periods.

($3^{1)}$ The tax authority has the right to delete a taxable person from the register if the taxable person does not engage in business in Estonia. If the proof provided concerning the taxable person's business is insufficient, the tax authority has the right to request that the taxable person submit additional proof or collect such proof on its own initiative. The tax authority shall give the taxable person written notice of the intention to delete the taxable person from the register and set a term for providing proof concerning the taxable person's business. If the taxable person fails to provide proof of business within the prescribed term, the tax authority shall delete the taxable person from the register of taxable persons.

(4) If a taxable person is dissolved or the activities thereof are terminated in Estonia, the tax authority shall delete the taxable person from the register of taxable persons.

(5) A taxable person shall be deleted from the register on the basis of a decision of the head of the tax authority. Before deciding on the deletion of a taxable person from the register, except in the cases specified in subsections (3) and (4) of this section, the tax authority shall, if necessary, audit the economic activities of the person. The taxable person is deemed to be deleted from the register as of the date specified in the decision.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 23. Deletion of taxable person with limited liability from register

(1) If a taxable person with limited liability is registered as a taxable person pursuant to § 20 of this Act, the person shall be deleted from the register as a taxable person with limited liability.

(2) If a person has been registered as a taxable person with limited liability for at least two years and the value of the goods acquired by the person by way of intra-Community acquisition did not exceed during the previous calendar year and will not exceed during the current calendar year, according to the calculations of the taxable person, the threshold specified in subsection 21 (2) of this Act, the person may submit an application to the tax authority to be deleted from the register as a taxable person with limited liability.

(3) If a taxable person with limited liability is dissolved or the activities thereof are terminated in Estonia, the tax authority shall delete the taxable person from the register as a taxable person with limited liability.

(4) A taxable person with limited liability shall be deleted from the register as a taxable person with limited liability on the basis of a decision of the head of the tax authority. Before deciding on deletion from the register, except in the case specified in subsection (3) of this section, the tax authority shall, if necessary, audit the activities of the person. The taxable person with limited liability is deemed to be deleted from the register as of the date specified in the decision.

§ 24. Rights and obligations of taxable persons

(1) As of the date of registration as a taxable person, a person shall perform the obligations of a taxable person, including adding the amount of value added tax to the taxable value of

the goods transferred or services provided, calculating the amount of value added tax due pursuant to the procedure provided for in § 29 of this Act, paying value added tax pursuant to the procedure provided for in § 38, preserving documents and maintaining records pursuant to the provisions of § 36, and shall issue invoices in accordance with the requirements of § 37 of this Act.

(2) Subsection (1) of this section applies to foreign persons registered in Estonia as taxable persons who create supply in Estonia.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 25. Rights and obligations of taxable persons with limited liability

(1) As of the date of registration as a taxable person with limited liability, a person shall perform the obligations of a taxable person with limited liability, including calculating the amount of value added tax due pursuant to the provisions of subsection 29 (12) of this Act, paying value added tax pursuant to the procedure provided for in § 38, preserving documents and maintaining records pursuant to the provisions of subsection 36 (3) of this Act. A taxable person with limited liability shall submit a value added tax return pursuant to the provisions of § 27 of this Act only if the person has performed acts specified in subsection 3 (5) of this Act during the taxable period. A taxable person with limited liability does not have the right to deduct input value added tax.

(2) A taxable person with limited liability who was registered pursuant to subsection 21 (1) of this Act upon the receipt of services specified in subsection 10 (5) of this Act from a foreign person engaged in business is not required to pay value added tax on the intra-Community acquisition of goods, except the intra-Community acquisition of excise goods or a new means of transport, if the taxable value of the goods acquired during a calendar year does not exceed 160,000 kroons. Within three working days as of the date on which that threshold is exceeded, the taxable person with limited liability shall notify the tax authority in writing of having exceeded the threshold on the intra-Community acquisition of goods.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(3) A taxable person with limited liability who does not pay value added tax on the intra-Community acquisitions of goods pursuant to subsection (2) of this section shall not use its registration number as a taxable person with limited liability when acquiring goods from another Member State. If a taxable person with limited liability uses its registration number as a taxable person with limited liability when acquiring goods from another Member State, the person shall be required to perform all the obligations specified in subsection (1) of this section.

§ 26. Registration of taxable persons as single taxable person

(1) The tax authority shall register a parent undertaking and its subsidiaries within the meaning of the Commercial Code as a single taxable person (hereinafter value added tax group) on the basis of a joint application by such taxable persons. Taxable persons who are economically and organisationally related shall also be registered as a value added tax group on the basis of a joint application if more than 50 percent of the shares, holding or votes of each company to be registered within the composition of a value added tax group are owned by one and the same person or if the persons are related on the basis of a franchise contract.

Estonian taxable persons engaged in business in Estonia shall be registered as a value added tax group.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) [Repealed – RT I 2009, 56, 376 – entered into force 1.01.2010]

(3) A taxable person may belong to only one value added tax group at the same time.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(4) A value added tax group shall be registered in the name of a representative person who is elected by persons who submitted the application and who shall represent the value added tax group, submit value added tax returns and applications for refund of overpaid amounts of value added tax. The representative person shall be elected from among the persons belonging to the value added tax group. A value added tax group shall be granted a joint registration number as a taxable person.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(5) The tax authority shall register a value added tax group as of the first date of the calendar month. The tax authority may re-register a value added tax group that has been deleted from the register on the basis of clause (8) 3) of this section as a value added tax group as of the day following the deletion thereof if only the companies that have been deleted from the Commercial Register and companies that have been declared bankrupt have been left out of the value added tax group to be registered.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(6) Overpaid amounts of value added tax shall be refunded to the representative person who represents the value added tax group.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(7) Transactions between persons registered as a value added tax group are not deemed to be supply. Transaction between a taxable person belonging to a value added tax group and a person outside the value added tax group is deemed to be a transaction of the value added tax group with the person.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(8) The tax authority shall delete a value added tax group from the register if:

1) the circumstances specified in subsection (1) of this section no longer exist, as of the first day of the month following the month in which such circumstances cease to exist;

2) a representative person of the value added tax group submits an application for the deletion of the value added tax group from the register if any changes are made in the composition of the group or for any other reasons, as of the first day of the month following the month of receipt of the application;

[RT I 2008, 58, 324 – entered into force 1.01.2010]

3) a company belonging to the value added tax group is declared bankrupt or it is deleted from the Commercial Register, as of the date of declaration of bankruptcy or deletion from the Commercial Register.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(9) The tax authority shall notify the persons belonging to a value added tax group of the deletion of the value added tax group from the register.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(10) As of the date of the deletion of a value added tax group from the register, the taxable persons are deemed to be re-registered as separate taxable persons.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(11) Persons registered as a value added tax group shall submit a joint value added tax return and be solidarily liable for payment of value added tax by the due date. In the case of deletion of a value added tax group from the register, the taxable persons shall be solidarily liable for the value added tax arrears which arose during the period when they were registered as a value added tax group.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(12) In the case of transactions between persons registered as a value added tax group no invoices shall be issued on the basis of § 37 of this Act.

[RT I 2008, 58, 324 – entered into force 1.01.2010]

(13) Provision of services between a taxable person belonging to a value added tax group and its permanent establishment located in a foreign country is deemed to be business.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(14) The procedure for registration of a value added tax group, the format of the corresponding registration applications, the format of decisions of the tax authority concerning registration and the procedure for deletion of a value added tax group from the register shall be established by a regulation of the Minister of Finance.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 27. Taxable period and value added tax return

(1) The taxable period is one calendar month. Value added tax returns shall be submitted to the tax authority by the twentieth day of the month following the taxable period. The first taxable period for a taxable person or taxable person with limited liability is the period from the date of registration as a taxable person or taxable person with limited liability until the end of the same month. If the number of calendar days in the first taxable period is less than fifteen, the taxable person or taxable person with limited liability may declare the supply of the first period together with the supply of the following taxable period and submit one return concerning two taxable periods. The format of value added tax returns shall be established by a regulation of the Minister of Finance.

(11) A value added tax return shall be submitted by electronic means if the person has been liable to value added tax for at least 12 months. On the basis of a reasoned request made by a taxable person or a taxable person with limited liability, the tax authority may allow the submission of a value added tax return on paper.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) The following are required to submit value added tax returns:

1) taxable persons;

2) taxable persons with limited liability who have performed acts specified in subsection 3 (5) of this Act during the taxable period;

3) persons specified in clause 3 (6) 2) of this Act in the case of transactions concerning which the person has issued an invoice or other sales document in which the amount of value added tax is indicated.

(3) [Repealed – RT I 2005, 68, 528 – entered into force 1.01.2006]

(4) On the basis of a reasoned request made by a taxable person, the head of the tax authority may, by his or her decision, establish a taxable period longer than one calendar month for the taxable person, provided that it begins on the first day of the calendar month or first taxable period and ends on the last day of one of the following calendar months. In this case, value added tax returns shall still be submitted to the tax authority by the twentieth day of the month following the taxable period.

(5) If a taxable person or taxable person with limited liability amends information submitted in a value added tax return concerning a previous taxable period, the person is required to submit a new value added tax return with the amended information to the tax authority concerning that taxable period.

(6) In the case of the declaration of bankruptcy of a taxable person, two value added tax returns shall be submitted concerning the taxable period: about the time preceding and following the declaration of bankruptcy.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 28. Report on intra-Community supply

(1) A taxable person is required to submit a report on intra-Community supply if:

1) it has effected intra-Community supply of goods during a taxable period or it has transferred goods as a reseller in a triangular transaction during a taxable period;

2) it has provided a service to a taxable person or taxable person with limited liability of another Member State the place of supply of which is not Estonia and which is subject to taxation by the recipient of the service in another Member State.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) A report on intra-Community supply shall be submitted to the tax authority by the twentieth day of the month following each quarter. A report on intra-Community supply shall

be submitted by electronic means if the person has been liable to value added tax for at least 12 months. On the basis of a reasoned request made by a taxable person, the tax authority may allow the submission of a report on paper.

[RT I 2009, 56, 376 – entered into force 1.01.2010] Applicable until 31.12.2010.

(2) A report on intra-Community supply shall be submitted to the tax authority by the twentieth day of the month following each calendar month.

[RT I 2009, 56, 376 – entered into force 1.01.2011]

(3) If a taxable person amends information in a report on intra-Community supply submitted concerning a previous period, the person is required to submit a report on the amendment of intra-Community supply to the tax authority concerning the corresponding period.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) The standard format of reports on intra-Community supply and the standard format of reports on the amendment of intra-Community supply and the procedure for the completion thereof shall be established by a regulation of the Minister of Finance.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(5) A taxable person who has transferred a new means of transport to a person of another Member State which will be transported to the other Member State shall add the invoice issued upon the sale of the means of transport to the report on intra-Community supply.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 29. Calculation of amount of value added tax

(1) The amount of value added tax to be paid by a taxable person is the value added tax calculated during the taxable period on transactions or acts specified in subsection 3 (4) and clauses (6) 5) and 6) of this Act less the input value added tax of the same taxable period on taxable supply, or goods or services used for transactions or acts specified in subsection 4 (2) of this Act and related to business or for business carried out in a foreign state, except transactions deemed to be supply exempt from tax (§ 16). Input value added tax of the same taxable period on goods or services used for services specified in clauses 16 (2) 1) and 6) or in subsection 2^1) of this Act which are provided to a person of a third country may also be deducted.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) Calculated value added tax is the value added tax calculated on the taxable value of the transactions or acts specified in subsection 3 (4) and in clauses (6) 5) and 6) of this Act carried out or performed by a taxable person. Value added tax paid pursuant to the customs rules is not included in the calculated value added tax.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(3) Input value added tax is:

1) value added tax to be paid on goods or services which a taxable person acquires or receives from another taxable person;

[Clause 2) is applied retroactively as of 1 November 2005]

2) value added tax paid or to be paid by a taxable person on imported goods;

3) value added tax 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;

4) value added tax 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 value added tax pursuant to this Act.

(4) If a taxable person uses goods or services for the purposes of transactions specified in subsection (1) of this section as well as purposes other than those related to business, only input value added tax on goods or services used for the purposes of transactions specified in subsection (1) of this section shall be deducted. If it is not possible to separate input value added tax on goods or services used for the purposes of transactions specified in subsection (1) of this section from input value added tax on goods or services used for purposes other than those related to business in the accounts of the taxable person, the procedure for deduction of input value added tax shall be determined by a decision of the head of the tax authority on the basis of an application by the taxable person, taking into account the actual use of the goods or services. Input value added tax on an automobile, motor fuel acquired for the automobile and costs directly related to the automobile shall be deducted regardless of the proportion of its use for business purposes, unless the person is a sole proprietor.

(5) If a taxable person has, prior to the person's date of registration as a taxable person, acquired goods, except for fixed assets, intended for transfer or for the manufacture of goods to be transferred, the taxable person has the right to deduct the input value added tax on such goods in the taxable period during which the goods were transferred as taxable supply. Input value added tax on the fixed assets acquired before registration of a person as a taxable person may be deducted, taking account of the provisions of subsection 32 (4) of this Act only if the person has not used such fixed assets before registration as a taxable person.

(6) Upon the export of goods specified in subsection 5 (2) of this Act, a taxable person has the right to reduce the person's tax liabilities in the taxable period during which the criteria set out in subsection 5 (2) were complied with by the amount of value added tax indicated on a document with customs confirmation if, at the time of submission of a value added tax return for the taxable period during which the goods were transferred, not all the criteria according to which the transfer of goods was treated as the export of goods had been complied with.

(7) If a taxable person cancels an invoice concerning goods or services or submits a credit invoice after submission of a value added tax return concerning the taxable period in which the supply of the goods or services was created, both the purchaser and the seller shall indicate the corresponding amendments in the value added tax 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.

(8) 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 value added tax payable for the taxable period in which the goods were returned by the amount of value added tax refunded to the purchaser.

(9) 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.

(10) If a taxable person is deleted from the register, the person shall pay value added tax on goods not yet transferred if the person has deducted the input value added tax on such goods upon acquisition. The acquisition cost or, in the absence thereof, the cost price of the goods shall be the taxable value of the goods. This provision does not apply to fixed assets.

(11) [Repealed – RT I 2005, 68, 528 – entered into force 1.01.2006]

(12) The amount of value added tax to be paid by a taxable person with limited liability is the value added tax calculated on the acts specified in subsection 3 (5) of this Act.

(13) The amount of value added tax shall be calculated on the basis of the tax rate which is applicable on the date determined pursuant to § 11 of this Act. Where information required for the calculation of the amount of value added tax on the import of goods is expressed in a foreign currency, the exchange rate shall be determined in accordance with the provisions of the Community Customs Code governing the calculation of value for customs purposes. Where information required for the calculation of the amount of value added tax on a transaction other than an import transaction is expressed in a foreign currency, the exchange rate of the Estonian kroon as determined by Eesti Pank and applicable on the date determined pursuant to § 11 of this Act applies.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

§ 30. Restrictions on deduction of input value added tax

(1) Input value added tax 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.

(2) The provisions of subsection (1) of this section do not apply to the deduction of input value added tax paid for accommodation services received during a business trip.

§ 31. Conditions for deduction of input value added tax

(1) Upon the receipt of goods or services from another taxable person, input value added tax shall be deducted on the basis of an invoice meeting the requirements of § 37 of this Act.

(2) Upon intra-Community acquisition of goods, acquisition of goods installed or assembled, acquisition of goods by way of a triangular transaction (clause 3 (4) 4)) and other acquisition of goods from a foreign person engaged in business on which a taxable person is required to calculate value added tax pursuant to this Act, an invoice is not required for the deduction of input value added tax if other proof exists.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) Upon the receipt from a foreign person engaged in business of services on which a taxable person is required to calculate value added tax pursuant to this Act, an invoice is not required for the deduction of input value added tax if other proof exists.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

[Subsection (4) is applied retroactively as of 1 November 2005]

(4) Upon the import of goods, input value added tax shall be deducted on the basis of a customs declaration. If goods are imported from a third country which is a part of the Community customs territory, input value added tax shall be deducted on the basis of an invoice received from a third country person engaged in business and a customs declaration containing the particulars of the imported goods (subsection 38 (2)).

[Subsection (4^1) is applied retroactively as of 1 November 2005]

(4^1) If the amount of value added tax due upon the import of goods is paid on the basis of a decision resulting from a follow-up inspection by the customs authorities, the input value added tax shall be deducted based on the decision of the customs authorities.

(5) [Repealed – RT I 2005, 68, 528 – entered into force 1.01.2006]

[Subsection (6) is applied retroactively as of 1 November 2005]

(6) If a taxable person who is importing goods pays the value added tax through a customs agency, the person has the right to deduct the input value added tax after the customs has released the goods and the taxable person has received a declaration approved by the customs authorities from the customs agency.

[Subsection (7) is applied retroactively as of 1 November 2005]

(7) A customs agency shall not treat value added tax paid or to be paid for another person as value added tax paid or to be paid on goods imported for the purposes of the business of the agency.

[Subsection (8) is applied retroactively as of 1 November 2005]

(8) In the case of the import of goods, input value added tax shall be deducted in the taxable period during which the customs released the goods. In other cases, input value added tax shall be deducted in the taxable period during which the goods or services are acquired or received pursuant to § 11 of this Act.

(9) Where goods acquired or services received and the invoice issued for such goods or services are received during different taxable periods, input value added tax shall be deducted in the taxable period when the transferor of the goods or the provider of the services created supply pursuant to § 11 of this Act. If the invoice which is the basis for the deduction of input value added tax is not received by the time the value added tax return is submitted for a taxable period, input value added tax shall be deducted in the taxable period during which the invoice is received.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 32. Partial deduction of input value added tax

(1) If a taxable person uses goods or services for the purposes of both taxable supply and supply exempt from tax, input value added tax shall be partially deducted from the calculated value added tax. Partial deduction shall be based on the proportion of the supply of the taxable person effected in Estonia and foreign countries where the input value added tax can be deducted pursuant to subsection 29 (1) of this section to the total amount of the supply effected by the person in Estonia and foreign countries (hereinafter proportion of taxable supply to total supply). The proportion of taxable supply to total supply shall be rounded up to two decimal points or to a full percentage.

(2) The transfer of fixed assets shall not be taken into account when calculating the proportion of taxable supply to total supply, including in cases where the taxable person has added value added tax to the taxable value of the goods pursuant to subsection 16 (3) of this Act. The provision of the services specified in clause 16 (2) 6) and subsection (2^1) of this Act or transfer of immovables as goods, in so far as these are incidental transactions, shall not be taken into account.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) Upon partial deduction of input value added tax, a taxable person may change the proportion of taxable supply to total supply referred to in subsection 33 (2) of this Act during a calendar year with the written permission of the head of the tax authority obtained on the basis of a reasoned request made by the taxable person if the actual proportion of taxable supply to total supply in the current calendar year is substantially different.

(4) The deduction of input value added tax of fixed assets and goods acquired and services received for the fixed assets shall be based on the estimated proportion in which the fixed assets were to be used for the purposes of taxable supply. Input value added tax shall be adjusted within the period for adjustment of input value added tax according to the actual proportion in which the fixed assets and goods acquired and services received for the fixed assets are used for the purposes of taxable supply. Input value added tax shall be adjusted only for the goods acquired and services received for the fixed assets which increase the book value of the fixed assets.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(4^1) The period for adjustment of input value added tax shall be 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 period of time between the date of registration in the accounting documents of fixed assets or goods acquired or services received for the fixed assets as fixed assets in use and the last day of the current calendar year is deemed to be the first calendar year.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(4^2) Input value added tax shall be adjusted at the end of each calendar year taking into account the actual proportion in which the fixed assets are used for the purposes of taxable supply during the given calendar year, except in the case specified in subsection (5) of this section.

(5) Upon the transfer of fixed assets, input value added tax shall be adjusted during the month in which the fixed assets are transferred. Input value added tax need not be adjusted upon transfer of an immovable used for business purposes to a credit or financial institution if the person who transfers the immovable has obtained the use of the immovable from the credit or financial institution on the basis of a contract during the same period of taxation and continues to use the immovable for business purposes for at least ten calendar years as of the beginning of use of the immovable for the business of the person.

(6) 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 shall be established by a regulation of the Minister of Finance.

(7) Taxable persons who supply investment gold exempt from value added tax have the right to deduct:

1) input value added tax paid upon purchasing investment gold from a taxable person who has exercised the right specified in clause 16 (3) 4) of this Act;

2) input value added tax paid on gold other than investment gold and imported by them, acquired by way of intra-Community acquisition or acquired from another taxable person, on the condition that they subsequently transform the gold into investment gold;

3) input value added tax paid upon receipt of services relating to a change of the form, weight or purity of the gold.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 33. Methods of partial deduction of input value added tax

(1) Upon partial deduction of input value added tax in the case specified in subsection 32 (1) of this Act, the 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.

(2) In the case of proportional deduction, the proportion of taxable supply to total supply shall be applied upon deduction of the input value added tax in full. The proportion of taxable supply to total supply shall be determined on the basis of the supply effected by the taxable person during the previous calendar year. The result shall be adjusted at the end of the calendar year, taking into account the proportion of taxable supply to total supply during the given calendar year. If the person has engaged in business for less than one calendar year, the proportion of taxable supply to total supply shall be determined by a decision of the head of the tax authority on the basis of an application by the taxable person, taking into account the estimated proportion of taxable supply to total supply during the first calendar year.

(3) In the case of the method combining direct calculation and proportional deduction, the input value added tax paid on goods acquired or services received for the purposes of taxable supply shall be deducted from the calculated value added tax. The input value added tax paid on goods acquired or services received for the purposes of supply exempt from tax shall not be deducted from the calculated value added tax. The input value added tax paid on goods acquired or services received for the purposes of both taxable supply and supply exempt from tax shall be deducted according to the proportion of taxable supply to total supply pursuant to

the procedure provided for in subsection (2) of this section. A taxable person shall keep separate accounts for taxable supply and supply exempt from tax, for the goods acquired and services received for the purposes thereof and for goods acquired or services received for the purposes of both taxable supply and supply exempt from tax.

(4) If a taxable person has effected only supply exempt from tax or only taxable supply in an area of activity and both taxable supply and supply exempt from tax in another area of activity, the taxable person may, with the written permission of the head of the tax authority, deduct the input value added tax paid on goods acquired or services received for the purposes of both taxable supply and supply exempt from tax in such area of activity according to the proportion of taxable supply to total supply in the same area of activity. Otherwise, the provisions of subsection (3) of this section apply in such cases.

§ 34. Refund of input value added tax to taxable person

(1) If value added tax calculated during a taxable period is less than the amount of input value added tax deductible by the taxable person during the same period, the overpaid amount of value added tax shall be refunded to the taxable person pursuant to the procedure provided for in the Taxation Act.

(2) The tax authority may, in connection with checking a claim for refund, extend the term for fulfilment of the claim by a reasoned decision for up to ninety calendar days if there is reason to believe that it may be impossible to reclaim the sum paid upon satisfaction of the claim for refund, and if:

1) the taxable person has been ordered to provide additional proof, or

2) an inquiry to a third person or foreign tax authority has been made in order to check the claim for refund.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

(3) The term for fulfilling a claim for refund may be extended for up to thirty calendar days at a time. The tax authority shall make a written reasoned decision on extension of the term of fulfilment of the claim for refund not later than five calendar days after the term of expiry of the term of fulfilment of the claim for refund.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

(4) Upon checking the accuracy of the claim for refund without an application for the fulfilment of the claim for refund, the provisions of subsections (2) and (3) of this section are applied.

[RT I 2008, 58, 323 – entered into force 1.01.2009]

(5) The tax authority of another Member State shall refund to a taxable person the value added tax paid in another Member State upon the import or acquisition of goods or receipt of services used for the purposes of its taxable supply effected in Estonia. An application for the refund of value added tax shall be submitted to the Estonian tax authority by electronic means not later than by 30 September of the calendar year following the period of refund.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 35. Refund of input value added tax in other cases

(1) Value added tax paid by a taxable person of another Member State in Estonia upon the import or acquisition of goods or receipt of services used for the purpose of business being carried out in the home country of the person shall be refunded to the taxable person of another Member State on the basis of an application from the taxable person and pursuant to the procedure established by a regulation of the Minister of Finance if:

1) the taxable person is required to pay value added tax as an undertaking in the home country of the person;

2) in its home country the taxable person has the right to deduct input value added tax paid upon the import or acquisition of goods or receipt of services under the same conditions from its calculated value added tax;

3) taxable persons of Estonia have the right to deduct, pursuant to this Act, input value added tax paid upon the import or acquisition of goods or receipt of services under the same conditions from their calculated value added tax;

4) the amount of value added tax to be refunded is at least 782 kroons per calendar year or 6,258 kroons in the case where the application is submitted concerning a period shorter than a calendar year but covering at least three months;

5) the application has been submitted to the Estonian tax authority through the tax authority of the home country of the taxable person of another Member State by electronic means not later than by 30 September of the calendar year following the period of refund.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(1^1) If a taxable person of another Member State who has the right in its home country to partially deduct input value added tax from the value added tax calculated on its taxable supply submits an application for the refund of value added tax during the period of refund, upon any changes in the proportion of the partial deduction of input value added tax the taxable person shall submit a correction of the application for the refund of value added tax during the calendar year following the period of refund.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(1^2) The tax authority shall notify a taxable person of another Member State of the satisfaction or rejection of an application for the refund of value added tax within four months or, upon the request of additional information, for example an invoice or import documentation, within six months of the receipt of the application. Upon the request of complementary additional information, the tax authority shall notify of making of the decision concerning the refund of value added tax within eight months of the receipt of the application. The tax authority shall send documents to the applicant by electronic means. If an application for the refund of value added tax is satisfied, value added tax shall be refunded not later than within ten working days of notifying the taxable person of the decision to satisfy the application.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(1³) If value added tax is refunded to a taxable person of another Member State after expiry of the term provided for in subsection (1²) of this section, the tax authority shall pay the person interest at the rate provided for in § 117 of the Taxation Act.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(2) Value added tax paid by a third country taxable person in Estonia upon the import or acquisition of goods, except immovables, or receipt of services used for business purposes shall be refunded to the third country taxable person on the basis of a written application from the taxable person and pursuant to the procedure established by a regulation of the Minister of Finance if:

1) the taxable person is required to pay value added tax as an undertaking in the home country of the person;

2) the amount of value added tax to be refunded per calendar year is at least 5,000 kroons;

3) taxable persons of Estonia have the right to deduct, pursuant to this Act, input value added tax paid upon the import or acquisition of goods or receipt of services under the same conditions from their calculated value added tax;

4) in the home country of the third country taxable person, Estonian residents have the right to the refund of value added tax.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(3) [Repealed – RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) Value added tax to be refunded shall be transferred to the bank account specified in an application submitted in the format established by a regulation of the Minister of Finance.

(5) The Government of the Republic has the right to establish, by a regulation, a list of movables and services upon the acquisition of which value added tax paid is not refunded to taxable persons of third countries even if the requirements specified in subsections (1) and (2) of this section are satisfied.

(6) Input value added tax paid upon acquisition or importation of goods in Estonia shall be refunded to persons who export such goods as humanitarian aid, provided that the export of the goods is certified by documents specified in subsection 5 (5) of this Act. Humanitarian aid is irrecoverable aid granted for alleviation of need to international organisations, foreign governments, foreign local governments or foreign non-governmental organisations.

(7) If a person is not entitled to the right to deduct input value added tax provided for in § 29 of this Act, the value added tax paid upon the acquisition or calculated on the purchase price of a new means of transport shall be refunded to the person after delivery of the new means of transport to the other Member State provided that the person proves that value added tax has been paid on the intra-Community acquisition of the goods in the other Member State. Value added tax shall be refunded in an amount not exceeding the value added tax calculated on the usual value of the new means of transport determined upon the delivery of the new means of transport to the other Member State.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(8) If a person is not entitled to the right to deduct input value added tax and cannot apply for a refund of value added tax on the basis of subsection (1) of this section, value added tax paid upon the import of goods shall be refunded to the person provided that the person proves that value added tax has been paid on the intra-Community acquisition of the goods in another Member State.

(9) If a taxable person hires out a means of transport, except an automobile, or leases it to a third country person or establishes a usufruct on a means of transport, except an automobile, for the benefit of a third country person, value added tax paid on such services shall be refunded to the person on the basis of an application provided that the person proves that the means of transport was used in a third country and that value added tax is also paid on the services in the third country.

(10) The procedure for the refund of value added tax to foreign taxable persons, the format of applications for such refunds of value added tax and the procedure for the refund of value added tax to persons who export goods as humanitarian aid shall be established by a regulation of the Minister of Finance.

(11) The procedure for the refund of value added tax paid upon the acquisition of new means of transport in special cases shall be established by a regulation of the Minister of Finance.

(12) [Repealed – RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 36. Obligations of taxable persons and taxable persons with limited liability upon keeping records

(1) A taxable person shall:

1) preserve copies of invoices issued by or on behalf the person (subsection 37 (1)) and invoices for goods acquired or services received by or on behalf of the person in chronological order for seven years as of the date of their issue or receipt. The information set out in an invoice shall be preserved in its original form. Customs declarations certifying the import of goods shall be preserved for seven years as of the beginning of the calendar year following customs formalities;

2) pursuant to the procedure established by a regulation of the Minister of Finance, maintain daily records of taxable supply and supply exempt from tax, calculated value added tax, input value added tax payable on taxable supply acquired from other registered taxable persons or on goods and services specified in subsection 4 (2) of this Act and used for business purposes, input value added tax calculated on the taxable value of received services or acquired goods specified in clauses 3 (4) 2)-5) of this Act, and input value added tax paid or to be paid on imported goods used for the purposes of business;

3) keep records of goods dispatched or transported to another Member State by or on behalf of the taxable person, provided that such goods are not treated as intra-Community acquisition of goods pursuant to subsection 7 (2) of this Act;

4) keep records of movables specified in clause 8 (3) 3) of this Act and delivered to the taxable person to Estonia from another Member State with an accuracy which enables the movables to be identified;

5) keep record of the transactions related to the returnable packaging specified in subsection 11 (7) of this Act and preserve the documentation concerning returnable packaging for a period of at least seven years.

(2) Registered taxable persons who sell investment gold shall maintain records of all transactions relating to investment gold and of all purchasers of investment gold and shall preserve the documentation relating to each transaction for five years as of the date of the transaction.

(3) A taxable person with limited liability shall:

1) preserve copies of invoices for goods acquired or services received specified in clauses 3 (4) 2)-5) of this Act in chronological order for seven years as of the date of their issue or receipt. The information set out in an invoice shall be preserved in its original form;

2) pursuant to the procedure established by a regulation of the Minister of Finance, maintain daily records of value added tax calculated on the taxable value of received services and imported or acquired goods specified in clauses 1 (1) 2) and 5) or clauses 3 (4) 2)-5) of this Act;

3) keep records of goods dispatched or transported to another Member State by or on behalf of the taxable person with limited liability, provided that such goods are not treated as intra-Community acquisition of goods pursuant to subsection 7 (2) of this Act;

4) keep records of movables specified in clause 8 (3) 3) of this Act and delivered to the taxable person with limited liability to Estonia from another Member State with an accuracy which enables the movables to be identified.

(4) A taxable person or taxable person with limited liability may choose the place at which invoices are preserved on the condition that the person makes the invoices or information preserved therein immediately available to the tax authority at the latter's request. Where the place at which invoices are preserved is outside Estonia, the taxable person or taxable person with limited liability shall inform the tax authority about the place at which the invoices are preserved.

(5) The procedure for maintaining daily records of taxable supply and supply exempt from tax, calculated value added tax, input value added tax payable on taxable supply acquired from other registered taxable persons or on goods or services specified in subsection 4 (2) of this Act and used for business purposes, input value added tax calculated on the taxable value of received services or acquired goods specified in clauses 3 (4) 2)-5) of this Act, and input value added tax paid or to be paid on imported goods shall be established by a regulation of the Minister of Finance.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 37. Invoices

(1) A taxable person shall issue an invoice for the transfer of goods or provision of services within seven calendar days as of the date on which the goods are dispatched or made available to the purchaser or the services are provided or as of the last day of the taxable period specified in subsection 11 (4) of this Act, or ensure that the invoice is issued within that term by a person acting in the name and for the account of the taxable person or by the

acquirer of the goods or the recipient of the services, except in the case specified in subsection (3) of this section.

(2) If the time of supply is the time of receipt of full or partial payment for the goods or services, an invoice shall be issued within seven calendar days as of the date of receipt of full or partial payment for the goods or services.

(3) An invoice meeting the requirements of this section need not be issued upon the transfer of goods or provision of services to a natural person for personal use, except in the case of distance selling, the transfer of a new means of transport or treating goods transferred to third country natural persons as exports. An invoice need not be issued upon the transfer of goods or provision of services specified in subsection 16 (1), (2) or (2^1) of this Act provided that value added tax is not imposed on such supply.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(4) A document, including a credit invoice, which amends an initial invoice and which contains a reference to the initial invoice shall be deemed to be an invoice.

(5) An invoice may be issued by the acquirer of goods or the recipient of services in respect of goods transferred or services provided thereto by a taxable person or foreign taxable person, on the condition that, before supply is effected, there is a written agreement between the two parties pursuant to which the acquirer of goods or the recipient of services will issue an invoice (or invoices) and the taxable person or foreign taxable person will accept the invoice (or invoices). The agreement must contain the procedure for the acceptance of each invoice by the taxable person or foreign taxable person.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(6) An invoice may be issued on paper or, subject to acceptance by the acquirer of goods or the recipient of services, by electronic means.

(7) The following shall be set out in an invoice:

1) the serial number and date of issue of the invoice;

2) the name and address of the taxable person and the person’s registration number as a taxable person;

3) the name and address of the acquirer of goods or the recipient of services;

4) the registration number of the acquirer of goods or the recipient of services as a taxable person if the acquirer of goods or the recipient of services has tax liabilities upon the acquisition of goods or receipt of services;

5) the name or a description of the goods or services;

6) the quantity of the goods or extent of the services;

7) the date of dispatch of the goods or provision of the services or the date of receipt of full or partial payment for the goods or services if the date can be determined and differs from the date of issue of the invoice;

[RT I 2008, 58, 324 – entered into force 1.01.2009]

8) the price of the goods or services exclusive of value added tax and any discounts, if these are not included in the price;

9) the taxable amount broken down by different rates of value added tax together with the applicable rates of value added tax or the amount of supply exempt from tax;

10) the amount of value added tax payable, except in the cases provided by law. The amount of value added tax shall be indicated in kroons.

(8) In addition to the information listed in subsection (7) of this section, the following shall also be set out in an invoice:

1) where supply subject to value added tax at the rate of 0 per cent or supply exempt from tax is involved, reference shall be made to the appropriate provision based on which such rate can be applied: to the appropriate clause of subsection 15 (3) or (4) or the appropriate subsection and clause of § 16 of this Act, or to the appropriate subparagraph of Article 132, 135, 146, 148, 151 or 156, or Article 136, 142, 152, 153, 159, 160, 346, 347, 382 or 37(3) of Council Directive 2006/112/EC, or where intra-Community supply of goods is involved, reference to Article 138 of the Council Directive, and where transport of goods to the Azores or Madeira, or from the Azores or Madeira to Estonia or another Member State is involved, reference to Article 142 of the Council Directive. Reference to the appropriate provision based on which the tax rate is applied need not be set out in the invoice upon export, and the reference to the provision of the Directive need not be set out in the invoice if the place of supply of the service is not Estonia;

2) where the acquirer of goods or the recipient of services is liable to pay the tax, reference to Article 194 or 196 of Council Directive 2006/112/EC;

3) where goods sold to a natural person of a third country are treated as exports (subsection 5 (2)), reference to subsection 5 (2) of this Act or Article 147 of Council Directive 2006/112/EC;

4) in the case of intra-Community transfer of a new means of transport, the particulars certifying that the transferred goods are a new means of transport and reference to clause 15 (3) 2) of this Act or subparagraph 138(2)(a) of Council Directive 2006/112/EC;

5) in the case of a triangular transaction, the registration number as a taxable person of the acquirer of the goods and reference to Article 141 of Council Directive 2006/112/EC;

6) where special arrangements apply for imposing value added tax on travel services (§ 40), reference to § 40 of this Act or Article 306 of Council Directive 2006/112/EC;

7) where special arrangements apply for imposing value added tax on the resale of second-hand goods, original works of art, collectors' items and antiques (§ 41) or where special arrangements apply for imposing value added tax on the sale of second-hand goods, original works of art, collectors' items and antiques by public auction (§ 42), reference to §§ 41 or 42 of this Act or Article 313 or 333 of Council Directive 2006/112/EC;

8) if a foreign person engaged in business has designated a tax representative (§ 20), the registration number as a taxable person and the name and address of the tax representative, and reference to subsection 20 (6) of this Act or Article 204 of Council Directive 2006/112/EC.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

($8^{1)}$ The reference provided for in subsection (8) of this section may be replaced by another clear and unambiguous notation.

[RT I 2007, 17, 83 – entered into force 1.03.2007]

(9) A simplified invoice may be issued, provided that the amount indicated in the invoice does not exceed 2,500 kroons exclusive of value added tax, in the following cases:

1) upon the provision of transport services for passengers;

2) in the case of invoices printed by parking meters, automated petrol stations and other similar machines.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(10) In the cases specified in subsection (9) of this section, at least the following information shall be set out in an invoice:

1) the date of issue of the invoice;

2) the name of the taxable person and the person's registration number as a taxable person;

3) the name or a description of the goods or services;

4) the taxable amount;

5) the amount of value added tax to be paid.

(11) A taxable person to whom an invoice is issued in compliance with the requirements listed in subsection (10) of this section shall indicate the name of the taxable person and the person's registration number as a taxable person on the invoice.

§ 38. Payment and receipt of value added tax

(1) A taxable person or taxable person with limited liability shall pay the amount of value added tax due by the date of submission of the value added tax return. The person shall, pursuant to the same procedure, pay any amount of value added tax which the person has indicated in an invoice or other sales document issued in violation of provisions of law.

(2) Payment of value added tax upon the import of goods shall be subject to the procedure provided by the customs rules. Upon the import of goods in the case specified in subsection 6 (4) of this Act, a person shall submit information concerning the import of goods on a customs declaration form and pay value added tax pursuant to the procedure provided by the customs rules.

($2^{1)}$ Upon notifying the tax authority in writing in advance, a taxable person may declare value added tax calculated on import of goods in the value added tax return, provided that the following conditions are met:

1) the taxable person has been registered for at least 12 consecutive months before the submission of such a customs declaration the value added tax calculated on the goods imported on the basis of which is declared in the value added tax return (hereinafter in this section customs declaration);

2) supply taxable at the 0 percent value added tax rate has formed at least 50 percent of the total supply of the 12 months preceding the submission of the taxable person's customs declaration;

3) within 12 months before the submission of the customs declaration the taxable person has submitted tax returns only by electronic means;

4) by the time of submission of a customs declaration the taxable person has not failed to submit tax returns on time;

5) the taxable person did not incur any tax arrears within the 12 months preceding the submission of the first customs declaration or at the time of submitting the following customs declarations.

[RT I 2007, 17, 83 – entered into force 1.01.2008]

($2^{2)}$ Upon import of fixed assets, the taxable person need not meet the conditions specified in clauses (2^{1}) 1)–3) of this section. If the taxable person does not meet the specified conditions, it must provide a security to the tax authority upon the request of the latter.

[RT I 2007, 17, 83 – entered into force 1.01.2008]

($2^{3)}$ The tax authority shall check the compliance of the taxable person with the conditions specified in subsection (2^{1}) of this section and on the twenty-fifth day of each month notify the taxable person, who has notified the tax authority pursuant to subsection (2^{1}) of this section in writing, of its compliance with the conditions in writing. The tax authority shall notify the taxable person of the claim for a security in writing within five working days of the receipt of a written notice in accordance with subsection (2^{1}) of this section.

[RT I 2007, 17, 83 – entered into force 1.01.2008]

(3) A person specified in clause 3 (6) 2) of this Act shall pay value added tax by the twentieth day of the month following the month in which the corresponding invoice or other sales document is issued.

(4) A person specified in clause 3 (6) 3) of this Act shall pay, pursuant to the procedure established by the Minister of Finance, value added tax to the customs authorities by the date of registration of a new means of transport acquired from another Member State or, in the case of a new means of transport which is not subject to registration, within ten calendar days as of the date of delivery of the means of transport to Estonia.

(5) A person specified in clause 3 (6) 4) of this Act shall pay value added tax pursuant to the procedure for payment of excise duty provided for in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(5^1) A person specified in clauses 3 (6) 5) and 6) of this Act, who is not a taxable person, shall present the particulars of the goods on a customs declaration form and shall pay value added tax pursuant to the procedure provided by the customs rules, taking account of necessary differences.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(6) Value added tax shall be paid into the state budget.

(7) The procedure for the payment of value added tax upon intra-Community acquisition of a new means of transport by a person who is not registered as a taxable person or taxable person with limited liability shall be established by a regulation of the Minister of Finance.

Chapter 5

SPECIFIC PROVISIONS CONCERNING TAXATION

§ 39. Tax incentives applicable to foreign missions, diplomats, Community institutions and armed forces of foreign states

(1) Value added tax shall not be imposed on the import of goods which are necessary for foreign diplomatic representatives, consular agents (except honorary consuls), representatives or representations of special missions or international organisations recognised by the Ministry of Foreign Affairs, diplomatic representations or consular posts of foreign states, special missions or Community institutions or for members of the administrative staff of such representations, posts or special missions, except for the administrative staff of Community institutions. Upon acquisition of such goods, except foodstuffs, or services in Estonia, value added tax paid on such goods or services shall be refunded on the basis of an invoice meeting the requirements of § 37 of this Act if, according to the invoice, the total value of the goods and services, inclusive of value added tax, is at least 1,000 kroons. In the case of public utility services, telecommunications services and fuel within the meaning of the Liquid Fuel Act, value added tax shall also be refunded if the value of the goods or services is less than 1,000 kroons. Community institutions shall also be refunded for the value added tax paid on acquisition of food products.

(2) Value added tax shall not be imposed on the import of goods which are necessary for the armed forces of NATO Member States, except Estonia, or for the civilian staff accompanying them or for members thereof when such forces are taking part in the common defence effort. Upon acquisition in Estonia of goods or services necessary for the performance of duties for the armed forces of NATO Member States, except Estonia, taking part in the common defence effort or for the civilian staff accompanying them, value added tax paid on such goods or services shall be refunded on the basis of an invoice meeting the requirements of § 37 of this Act. The tax incentives specified in this subsection apply to the armed forces and civilian staff of other foreign states and to members thereof, international military headquarters and international military educational institutions if so provided by an international agreement ratified by the Riigikogu.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) The procedure for and conditions of exemption from value added tax of goods imported to meet the needs of the representations, posts, special missions and institutions specified in subsection (1) of this section and the armed forces and civilian staff and the members thereof and the headquarters and educational institutions specified in subsection (2) of this section and the procedure and conditions for the refund of value added tax shall be established by a regulation of the Government of the Republic. The format of applications for the refund of value added tax paid on goods acquired in Estonia shall be established by a regulation of the Minister of Finance.

(4) On the proposal of the Minister of Foreign Affairs, exceptions to the provisions of subsection (1) of this section may be made on the basis of the principle of reciprocity by a regulation of the Government of the Republic.

(5) The right of a representation, post, special mission, institution or natural person specified in subsection (1) of this section to apply for exemption from or a refund of value added tax shall be approved by an official authorised by the Minister of Foreign Affairs.

(6) The right of the armed forces and civilian staff and the members thereof and the headquarters and educational institutions specified in subsection (2) of this section to apply for exemption from or a refund of value added tax shall be approved by the Minister of Defence.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 40. Special arrangements for imposing value added tax on travel services

(1) Special arrangements for imposing value added tax on travel services are applicable to taxable persons who, acting in their own name, provide services directly related to travel (hereinafter travel services) to travellers, including legal persons and agencies, and use goods acquired and services received from other Estonian or foreign persons engaged in business in the provision of travel services.

(2) The special arrangements need not be applied to taxable persons who, acting in their own name, provide travel services to other Estonian or foreign taxable persons for resale.

(3) The place of supply of travel services subject to value added tax under the special arrangements is Estonia. The place of supply of travel services is not Estonia if the services used in the provision of travel services are received from another taxable person or person engaged in business and if the other person provides the services in a third country. If a part of travel services is provided in a third country, Estonia shall not be deemed to be the place of supply of those travel services which are related to the services provided in the third country.

(4) The taxable value of travel services subject to the special arrangements shall be the difference between the total amount to be paid for the services to a taxable person by the recipient of the services and the total cost, inclusive of value added tax, to the taxable person of goods acquired and services received from other taxable persons or persons engaged in business where these transactions are for the direct benefit of the recipient of the services, and the difference shall then be reduced by the value added tax contained therein.

(5) On the basis of a reasoned written application from a taxable person, the tax authority may grant permission to the taxable person to use, when calculating the taxable value of

travel services, the average margin of the calendar year prior to the provision of the services. The margin is the proportion of the total cost, inclusive of value added tax, to a taxable person of goods acquired and services received from other taxable persons for the direct benefit of the recipient of the services to the total amount to be paid for the services to the taxable person by the recipient of the services. If the taxable person uses, with the permission of the tax authority, the average margin of the calendar year prior to the provision of the travel services in the calculation of the taxable value of the travel services, the taxable person shall use the margin until the end of the calendar year and adjust the taxable value of the travel services at the end of the calendar year for the entire calendar year, proceeding from the taxable value of the travel services calculated pursuant to subsection (4) of this section.

(6) If a taxable person applies the special arrangements, the taxable person shall not be entitled to the right to deduct from value added tax calculated pursuant to subsection (4) or (5) of this section input value added tax paid by the taxable person to another taxable person upon the acquisition of goods or receipt of services for the direct benefit of the recipient of the services.

(7) A taxable person shall treat all services provided and goods transferred to a recipient of travel services pursuant to the special arrangements as a single travel service.

(8) If a taxable person applies the special arrangements, the taxable person shall not indicate the amount of value added tax paid upon the acquisition of goods or the receipt of services or calculated on the taxable value determined pursuant to subsection (4) or (5) of this section on an invoice issued for travel services subject to the special arrangements.

(9) If a taxable person provides both travel services subject to the special arrangements and services not subject to the special arrangements, the taxable person is required to keep separate records for travel services subject to the special arrangements and goods acquired or services received therefor and of other services not subject to the special arrangements and goods acquired or services received therefor.

(10) [Repealed – RT I 2005, 68, 528 – entered into force 1.01.2008]

(11) The procedure for adjustment, by taxable persons using an average margin, of the taxable value of travel services shall be established by a Regulation of the Minister of Financial Affairs.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 41. Special arrangements for imposing value added tax on resale of second-hand goods, original works of art, collectors' items and antiques

(1) If a taxable person acquires second-hand goods, original works of art, collectors' items or antiques with a view to resale and does not use the goods, the taxable person may, upon resale, apply the procedure for the calculation of taxable value provided for in subsection (3) of this section on the condition that the taxable person acquired the goods:

1) from a person of Estonia or another Member State who is not a taxable person;

2) from a taxable person of Estonia or another Member State who did not add value added tax to the price of the goods upon transfer of the goods and who could not deduct input value added tax paid upon acquisition of the goods;

3) from a taxable person of Estonia or another Member State, in so far as the resale of second-hand goods, original works of art, collectors' items or antiques by that other taxable person was subject to value added tax in accordance with the special arrangements provided for in this section.

(2) "Second-hand goods" means movables which have been used and which are suitable for further use as they are or after repair, other than original works of art, collectors' items or antiques and other than precious metals or precious stones. "Original works of art" means the goods referred to in Part A of Annex IX to Council Directive 2006/112/EC, although taxable persons shall have the option of not considering the items mentioned in points (5)–(7) of Part A of Annex IX to Council Directive as "original works of art". "Collectors' items" means philately items (CN code 9704 00 00) and collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest (CN code 9705 00 00). "Antiques" means objects which are more than 100 years old (CN code 9706 00 00).

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(3) In the case of the resale of second-hand goods, original works of art, collectors' items or antiques, the taxable value of supply shall be the difference between the sales price and purchase price of the goods which has been reduced by the value added tax contained therein.

(4) If a taxable person applies the procedure for the calculation of taxable value set out in subsection (3) of this section, the taxable person shall not indicate the amount of value added tax paid upon the acquisition of goods or calculated on the taxable value determined pursuant to subsection (3) of this section on an invoice or other sales document issued.

(5) If a taxable person has notified the tax authority accordingly, the person may also resell the following goods under the procedure for calculating taxable value provided for in subsection (3) of this section:

1) original works of art, collectors' items and antiques imported by the person;

2) original works of art sold to the taxable person by the author or the copyright holder.

(6) If a taxable person utilises the option specified in subsection (5) of this section, the taxable person shall observe the procedure for calculating taxable value provided for in subsection (3) of this section upon the resale of the goods specified in subsection (5) of this section for at least two calendar years as of taking up the option specified in subsection (5) of this section.

(7) In the case of original works of art, collectors' items or antiques imported by a taxable person, the taxable value calculated pursuant to subsection 13 (1) of this Act plus the value added tax calculated on the taxable value is deemed to be the purchase price.

(8) [Repealed – RT I 2008, 58, 324 – entered into force 1.01.2009]

(9) A taxable person does not have the right to deduct value added tax pursuant to the procedure for calculating taxable value provided for in subsection (3) of this section upon the taxation of supply effected by the taxable person, where the person paid the value added tax on the following:

1) the import of original works of art, collectors' items or antiques;

2) the acquisition of original works of art from the author or the copyright holder.

(10) A taxable person is required, under the procedure for calculating taxable value provided for in subsection (3) of this section, to keep separate records of the acquisition and transfer of goods transferred. A taxable person must have documents certifying the acquisition of goods from a person specified in subsection (1) of this section and the compliance of the goods with the criteria set out in subsection (2) of this section.

§ 42. Special arrangements for imposing value added tax on sale of second-hand goods, original works of art, collectors' items and antiques at public auctions

(1) In the case of the sale of second-hand goods, original works of art, collectors' items or antiques at a public auction, the taxable value of the supply of the organiser of the auction shall be the difference between the sales price and the price paid to the principal which has been reduced by the value added tax contained therein.

(2) The sales price of the goods is the amount paid by the purchaser to the organiser of the auction on the basis of an invoice or other sales documents issued by the organiser. The sales price of the goods shall include the price of the goods at the public auction and other amounts payable by the purchaser of the goods to the organiser of the auction in connection with the acquisition of the goods.

(3) The price payable to the principal is equal to the difference between the price of the goods at the public auction and the commission obtained or to be obtained by the organiser of the public auction from the principal under the contract.

(4) The organiser of a public auction shall not indicate the amount of value added tax calculated on the taxable value determined pursuant to subsection (1) of this section on an invoice or other sales document issued to a purchaser.

(5) The procedure for calculating taxable value provided for in subsection (1) of this section shall be applicable if the organiser of the public auction acts on the basis of a commission contract concluded with a person specified in clauses 41 (1) 1)-3) of this Act, whereby commission is payable on the sale of goods at the public auction.

(6) A taxable person acting as an organiser of an auction to whom goods are delivered under a contract specified in subsection (5) of this section shall issue a statement to the principal of the person setting out the price of the goods at the public auction and the amount representing the price of the goods at the public auction less the commission payable by the principal. The statement shall also serve as an invoice issued by the principal to the organiser of the public auction.

§ 43. Special arrangements for imposing value added tax on electronically supplied services

(1) Special arrangements for imposing value added tax (hereinafter special arrangements) may be applied to electronically supplied services on the condition that the services are provided by a third country person engaged in business who is not registered as a taxable person in any of the Member States to a person of a Member State who is not registered as a taxable person or taxable person with limited liability.

(2) A third country person engaged in business who has opted for the application of the special arrangements shall apply the special arrangements to all services supplied by the taxable person electronically to persons specified in subsection (1) of this section.

(3) If a third country person engaged in business has decided to register in Estonia under the special arrangements, the taxable person shall inform the tax authority, using electronic means, when activity as a taxable person is to commence, cease or change to the extent that the person no longer qualifies for the special arrangements.

(4) In order to register, a third country person engaged in business shall submit the following obligatory details for identification to the tax authority using electronic means:

1) name and address;

2) e-mail address or addresses;

3) website addresses;

4) registration number as a taxable person in the home country, if any;

5) a statement confirming that the person is not registered as a taxable person in any of the Member States.

(5) A third country person engaged in business shall notify the tax authority electronically of any changes in the information submitted to the tax authority pursuant to subsections (3) and (4) of this section.

(6) The tax authority shall allocate a registration number to the third country person engaged in business and shall notify the taxable person by electronic means of the registration number allocated thereto.

(7) The tax authority shall exclude the third country person engaged in business from the register if:

1) the third country person engaged in business notifies that the person no longer supplies electronic services, or

2) it becomes evident that the taxable activities of the third country person engaged in business have ended or the person no longer fulfils the requirements necessary to be allowed to apply the special arrangements, or

3) the third country person engaged in business persistently fails to comply with the rules concerning the special arrangements.

(8) A third country person engaged in business shall submit by electronic means to the tax authority a value added tax return concerning electronically supplied services for each calendar quarter. A value added tax return concerning electronically supplied services shall be submitted by the twentieth day of the month following a quarter. A third country person engaged in business shall pay the amount of value added tax due by the date of submission of the value added tax return. The list of information to be submitted in value added tax returns concerning electronically supplied services shall be established by a regulation of the Minister of Finance.

(9) A third country person engaged in business shall not deduct value added tax paid upon the acquisition of goods or the receipt of services in the Community from the value added tax to be paid by the person as input value added tax, but has the right to be granted a refund by the Member State concerned (§ 35).

(10) A third country person engaged in business shall keep records of the transactions covered by the special arrangements in sufficient detail to enable the tax authority of the home Member State of the recipient of the services to determine that the information entered in the value added tax return is correct. These records shall be made available electronically on the request of the tax authority or the tax authority of the Member State in which the recipient of the services is established. These records shall be maintained for a period of ten years from the end of the year when the transaction was carried out.

(11) A third country person engaged in business who has opted for the special arrangements may not designate a tax representative.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§ 44. Special arrangements for imposing value added tax on sole proprietors

(1) A sole proprietor may treat the date on which an act specified in clause 11 (1) 2) or 3) of this Act is performed as the time of supply or receipt of services, except the intra-Community supply of goods and the supply of services provided to a taxable person or taxable person with limited liability of another Member State, the place of creation of which is not Estonia. The sole proprietor shall inform the tax authority about his or her using this option in writing upon registration as a taxable person or during the taxable period prior to taking up the option or earlier and shall indicate in a written notice the taxable period from which the sole proprietor will commence using the option.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(1^1) A sole proprietor who uses the option shall keep records of the registration obligation threshold specified in subsection 19 (1) of this Act on a cash basis. Value added tax shall be added to the transaction with which the threshold is exceeded in the extent of the entire transaction.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(2) If a sole proprietor who uses the option transfers goods free of charge, the date on which the goods are dispatched or made available to the purchaser shall be the time of supply.

(3) A sole proprietor who uses the option is entitled to the deduction of input value added tax on goods acquired, except goods acquired by way of intra-Community acquisition, or services received after full or partial payment for the goods or services to the extent in which the goods or services are paid for.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(4) If, for reasons independent of the sole proprietor, goods acquired or services provided are not paid for within the two taxable periods following the date on which the goods were dispatched or made available or the services were provided, the first day of the third taxable period shall be the time of supply.

(5) A sole proprietor has the right to discontinue using the option in which case he or she shall notify the tax authority thereof in writing during the taxable period prior to applying the general conditions set out in subsection 11 (1) of this Act or earlier.

§ 44[1]. Tax warehousing

(1) Tax warehousing means placing the goods specified in Annex V to Council Directive 2006/112/EC in a place approved by the tax authority for the purpose of application of value added tax incentives. A tax warehouse is a place where tax warehousing is carried out.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(2) The keeper of a tax warehouse must provide security in order to guarantee performance of tax obligations which may arise with regard to the goods stored in the tax warehouse. The security shall be given, released, used and calculated pursuant to the procedure concerning the security prescribed by the customs rules for customs warehouses, taking account of the differences regarding tax warehouses.

(3) A permit issued by the tax authority is required for operating a tax warehouse. A person wishing to operate a tax warehouse shall submit a written application containing the information necessary for obtaining a permit for operating a tax warehouse.

(4) The tax authority shall issue a permit for operating a tax warehouse if the following conditions are met:

1) the accounting of the applicant enables the tax authority to check the activities of the applicant;

2) the applicant keeps accurate accounts concerning the movement of the goods;

3) the applicant has no tax arrears;

4) the applicant has submitted accurate data to the tax authority;

5) the application is economically justified.

(5) The tax authority may refuse to issue a permit for operating a tax warehouse if, within a period of six months before the date of submission of the application, the applicant has been punished for a misdemeanour provided by §§ 154 or 156 of the Taxation Act, or the applicant has committed a criminal offence specified in §§ 389[1] or 389[2] of the Penal Code if information concerning the punishment has not been expunged from the punishment register.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

(6) The keeper of a tax warehouse shall keep stock records of all the goods admitted in the tax warehouse in a form approved by the tax authority. Goods shall be entered in the warehouse stock records without delay after the relevant person brings the goods in the tax warehouse. The stock records must enable the tax authority to identify the goods, and must record the transactions carried out with the goods as well as the movements of the goods.

(7) The goods are deemed to be admitted in the tax warehouse after they have been entered in the warehouse stock records. Tax warehousing is deemed to be terminated after the goods have been deleted from the warehouse stock records.

(8) If as the result of processing, goods no longer belong to the list specified in Annex V to Council Directive 2006/112/EC, the tax warehousing of the goods shall be immediately terminated.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(9) Goods which are admitted in a tax warehouse may be transferred to another tax warehouse without suspending the tax warehousing. The keeper of the sending tax warehouse is liable for the performance of the tax obligation until the goods are entered in the stock records of the other tax warehouse. If goods are unlawfully taken out of the place prescribed for tax warehousing, the keeper of the tax warehouse and the person who took the goods out shall bear solidary liability for the performance of the tax obligation provided in clause 3 (6) 5) of this Act.

(10) Goods missing from a tax warehouse are deemed to be goods unlawfully taken out of the place prescribed for tax warehousing. Upon comparing the results of measurements of liquids or bulk with the data submitted concerning such goods, the tax authority may consider the measurement uncertainty of the measurement process. If goods are lost to an extent which exceeds the measurement uncertainty, the warehouse keeper must prove to the tax authority that the loss occurred by virtue of unforeseeable circumstances, a natural process or the particular nature of the goods.

(11) The tax authority may suspend a permit for operating a tax warehouse for up to two calendar months and set a term for elimination of the differences based on which the permit was suspended, for compliance with the requirements of the tax authority or for taking the goods out of the tax warehouse, if:

1) within a period of six months before the date of suspension of the permit, the warehouse keeper has been punished for a misdemeanour provided by §§ 154 or 156 of the Taxation Act or the warehouse keeper has committed a criminal offence specified in §§ 389^1 or 389^2 of the Penal Code;

[RT I 2009, 56, 376 – entered into force 1.01.2010]

2) the keeper of the warehouse has tax arrears;

3) false information has been submitted upon application for the permit;

4) the operation of the tax warehouse does not conform to the requirements for operating a tax warehouse;

5) the obligation to provide a tax warehouse security has not been performed.

(12) A permit for operating a tax warehouse shall be invalidated on the basis of a written application of the warehouse keeper or on the initiative of the tax authorities. The tax authority may revoke a permit if:

1) the permit was suspended prior to revocation on the grounds specified in clause 11 1) of this section;

2) the warehouse keeper fails to eliminate the circumstances underlying the invalidation of the permit within the specified term.

(13) The requirements for tax warehouses and the procedure for the issue, suspension and invalidation of a permit for operating a tax warehouse, and the procedure for the storage and transport of the goods admitted to a tax warehouse shall be established by a regulation of the Minister of Financial Affairs.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

§ 44[2]. Securities

To secure the performance of the tax liability which may arise, the tax authority shall have the right to require a security from the handler of alcohol, the handler of tobacco products and the handler of fuel in accordance with the procedure established in the Taxation Act.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

Chapter 6

FINAL PROVISIONS

§ 45. Taxation of supply based on contracts entered into before entry into force of this Act

(1) This Act also applies to the taxation of supply which is based on contracts entered into before the entry into force of this Act if the actual supply is effected after the entry into force of this Act.

(2) In the following cases, supply is deemed to have been effected during the time governed by the Value Added Tax Act in force until the entry into force of this Act:

1) if supply is created pursuant to the Value Added Tax Act in force until the entry into force of this Act prior to the entry into force of this Act but, pursuant to this Act, upon the entry into force of this Act or later;

2) if supply is created pursuant to the Value Added Tax Act in force until the entry into force of this Act upon the entry into force of this Act or later but, pursuant to this Act, prior to the entry into force of this Act. In both cases, the taxable person shall perform any obligations relating to value added tax pursuant to the Value Added Tax Act in force until the entry into force of this Act.

§ 46. Implementation of Act

(1) Persons who have been registered as taxable persons on the basis of the Value Added Tax Act in force until the entry into force of this Act and who have not been deleted from the register are deemed to be taxable persons as of the entry into force of this Act. Taxable persons who have been registered as a single taxable person on the basis of the Value Added Tax Act in force until the entry into force of this Act and the decision concerning whose registration as a single taxable person has not been annulled are deemed to be a single taxable person as of the entry into force of this Act.

(2) A person specified in subsection (1) of this section shall submit a value added tax return and pay value added tax for the taxable period prior to the entry into force of this Act pursuant to the procedure prescribed by the Value Added Tax Act in force prior to the entry into force of this Act.

(3) Value added tax shall not be imposed on the transfer of construction works and land under construction works before the commencement of use of the construction works, if the construction commenced prior to the entry into force of this Act, and on the transfer of plots if there are no construction works thereon and the plots of land were acquired prior to the entry into force of this Act (clause 16 (2) 3)).

(4) If a taxable person notified the tax authority prior to 1 January 2004 in writing of the person's wish that the supply of the person's dwelling or services of leasing a dwelling or supply of costs relating to land tax and building insurance demanded by the person as the lessor of a dwelling from the recipient of the service be taxed, taxation of such supply may continue until 1 May 2014.

(5) The period for the recalculation of input value added tax (§ 32) on immovables which a taxable person has been using for business for less than five calendar years upon the entry into force of this Act shall be extended to ten calendar years as of the commencement of use of the immovables for business. The number of calendar years from the commencement of use of the immovables for business until the entry into force of this Act shall be multiplied by two upon calculation of the recalculation period.

(6) The right to apply an exemption from value added tax or the 0 per cent value added tax rate granted by the tax authority pursuant to § 31 of the Value Added Tax Act in force until the entry into force of this Act shall be valid even if the transaction or act to which the decision of the tax authority pertains is performed after the entry into force of this Act. Value added tax paid on goods or services until the entry into force of this Act shall be refunded under the conditions and pursuant to the procedure established on the basis of § 31 of the Value Added Tax Act in force until the entry into force of this Act.

(7) The provisions of the Value Added Tax Act in force until the entry into force of this Act apply to the transfer of goods pursuant to a capital lease contract entered into prior to the entry into force of this Act on the condition that the goods have been transferred into the possession of the contractual user of the goods prior to the entry into force of this Act.

(8) The use for purposes other than business purposes of automobiles, upon the acquisition of which the taxable person partially deducted input value added tax pursuant to subsection 21 (2) of the Value Added Tax Act in force until the entry into force of this Act or pursuant to analogous provisions of an earlier Value Added Tax Act, shall not be taxed as self-supply.

(9) If services are provided to a third country person on the basis of a contract for the hiring or leasing of or establishment of a usufruct on a means of transport, except automobiles, concluded prior to the entry into force of this Act, the provisions of the Value Added Tax Act in force until the entry into force of this Act apply to the provision of such services on the condition that the means of transport has been transferred into the possession of its contractual user prior to the entry into force of this Act.

(10) The provisions of the Value Added Tax Act in force until the entry into force of this Act apply to Community goods or goods in free circulation in the Czech Republic, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia or the Slovak Republic (hereinafter acceding countries) which are transported to Estonia and on the export of which customs formalities are completed in the Community or the acceding country prior to the entry into force of this Act until value added tax is paid on the import of the goods.

(11) If a person does not have the right to deduct input value added tax and cannot apply for a refund of value added tax on the basis of subsection 35 (1) of this Act, value added tax paid upon the import of goods covered by the temporary importation procedure with total relief from import duties shall be refunded to the person as of the entry into force of this Act, on the condition that the person proves that earlier export of the goods from a Member State of the Community or an acceding country has not given rise to the application of the 0 per cent value added tax rate, an exemption from value added tax or a refund of value added tax.

(12) If goods which are undergoing the outward processing procedure in the Community or an acceding country upon the entry into force of this Act are transported into Estonia under customs supervision, the provisions of the Value Added Tax Act in force until the entry into force of this Act apply to the goods until value added tax is paid on the import of the goods.

(13) If Estonian goods which were transported to a Member State of the Community or an acceding country for purposes which comply with the purposes of applying the temporary importation procedure with total relief from import duties prior to the entry into force of this Act are transported into Estonia under customs supervision, the provisions of the Value Added Tax Act in force until the entry into force of this Act apply to the goods until the goods are imported.

[RT I 2005, 68, 528 – entered into force 1.01.2006]

(14) If goods which were undergoing the processing procedure under customs control in Estonia on 1 January 2009 are placed under the customs procedure of release for free circulation, the provisions of this Act in force until 31 December 2008 apply to the import of the goods.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(15) Decisions concerning the registration as a single taxable person and made before 31 December 2009 shall be annulled as of 1 January 2010.

[RT I 2008, 58, 324 – entered into force 1.01.2009]

(16) Until 31 December 2011 the export of goods is deemed to be the transfer of the goods to a third county natural person for transportation to the third country in baggage with which the person is travelling if the sales price of the goods in the packaging transferred to the person by the same taxable person at the same point of sale on the same date, with value added tax, exceeds 600 kroons and the criteria provided for in clauses 5 (2) 1), 3) and 4) of this Act are met.

[RT I 2009, 56, 376 – entered into force 1.01.2010]

§§ 47–49 [Omitted from this text]

§ 50. Entry into force of Act

(1) This Act enters into force as of Estonia's accession to the European Union.

(2) Section 48 of this Act enters into force on 1 January 2004.

[Sections (3) and (4) are applied retroactively as of 1 July 2006]

(3)–(4) [Repealed – RT I 2007, 17, 83 – entered into force 1.03.2007]

(5) Subsection 40 (10) of this Act applies until 31 December 2007.

[RT I 2005, 68, 528 – entered into force 1.01.2006]