

# Value added taxation in Finland 2008



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# Introduction

With effect as of June 1, 1994 Finland adopted the value-added tax, replacing the partly cumulative turnover tax. Later the Finnish VAT legislation has been amended to conform with the EU VAT rules.

## Taxable persons

A taxable person is any person who carries out taxable activities in a business in Finland. The following is subject to VAT:

- Entrepreneurs that in the course of their business supply taxable goods and services in Finland and are therefore, required to be registered.
- All those who import goods.

There are certain exceptions to these main rules. For example small businesses, non-profit organizations, religious communities and disabled persons under certain conditions are exempted from VAT.

## Taxable amount

VAT is levied on the sales price of taxable goods and services, excluding the VAT itself. The taxable value includes all surcharges and other taxes except VAT. On the other hand, the taxable person may deduct for example bad debts (relating to receivables for which VAT has already been paid) and discounts as well as certain other correction items subsequent to delivery.

In the case of imported goods, VAT is levied on the value of goods for customs purposes, plus the customs duty. The taxable value of goods, which have been sent abroad to be repaired, completed or otherwise processed is the value added abroad, including the transportation expenses. However, in this case special procedures have to be followed.

# VAT rates and application

The standard rate of VAT is 22 percent in Finland. A reduced rate of 17 percent is applied to food and animal feed, excluding restaurant services, live animals, drinking water, alcoholic beverages and tobacco products. A reduced rate of 8 percent is applied e.g. to:

- Medicines;
- Books;
- Sports facilities;
- Admissions to movie-theatre performances as well as cultural and entertainment events;
- Passenger transport services;
- Accommodation services;
- Hairdressing services and
- Small repair services.

# Place of taxable transaction

The supply of goods or services is subject to VAT in Finland only if the supply takes place in Finland.

## Place of supply of goods

### General provision

Where the supply of goods does not involve their removal from or to Finland, they are treated as supplied in Finland if they are in Finland and otherwise are treated as supplied outside Finland. Consequently, if a foreign company supplies goods to its Finnish subsidiary, the supply is subject to VAT in Finland if the goods remain in Finland and are not removed from Finland. However, because of the reverse charge rules the foreign companies usually do not have to register for VAT purposes in Finland on the basis of this kind of supplies.

In addition to the above-mentioned general provision the Finnish VAT Act includes several special provisions regarding the place of supply of goods, some of which are explained below.

### Supply of goods with installation or assembly

Goods are also treated as supplied in Finland if their supply involves their installation or assembly in Finland. On the other hand goods are treated as supplied outside Finland if their supply involves their installation or assembly outside Finland.

Consequently, if a foreign company supplies goods to its Finnish subsidiary and undertakes the installation or the assembly of the goods in Finland, the supply is deemed to take place in Finland. In this case the supply is subject to Finnish VAT, but on the basis of the reverse charge rules foreign companies are not usually liable to register for VAT purposes in Finland in this kind of cases.

If a Finnish subsidiary of a foreign company supplies goods to its parent company and undertakes the installation or the assembly of the goods for example in another EU Member State, the supply is deemed to take place outside Finland. In this case the supply is not subject to Finnish VAT.

### Intra-Community supply of goods and intra-Community acquisition of goods

The supply of goods carried out by a VAT registered trader in one EU Member State to a VAT registered trader in another EU Member State will, with some exceptions, qualify as an intra-Community supply. A VAT registered Finnish trader may zero-rate the supply of goods to a customer in another EU Member State if

- The customer is registered for VAT purposes in another EU Member State;
- The goods are dispatched or transported from one EU Member State to another EU Member State;
- The customer's VAT registration number is mentioned on the sales invoice; and the supplier retains the proof of transport.

However, the intra-Community acquisition of the goods is subject to VAT in the EU Member State of arrival of the goods.

If a Finnish VAT registered subsidiary of a foreign company supplies goods to its parent company registered for VAT purposes in another EU Member State and the goods are transported from Finland to another EU Member State, the subsidiary is not liable to pay Finnish VAT on the supply. In this case the subsidiary is considered to make an intra-Community supply of goods to the parent company.

On the other hand, if a Finnish VAT registered subsidiary of a foreign company purchases goods from its parent company registered for VAT purposes in another EU Member State and the goods are transported from another EU Member State to Finland, the subsidiary is liable to pay Finnish VAT on the intra-Community acquisition of the goods. If the subsidiary is entitled to full deduction, the VAT payable on the intra-Community acquisition is deductible in the same VAT period. Consequently, in that case the VAT due does not have to be paid in practice.

### Transfer of goods

For VAT purposes transfers of goods between different EU Member States are also treated as intra-Community supplies and acquisitions.

Consequently, if for example a foreign company transfers goods to its Finnish branch from another EU Member State to Finland, the company is considered to make an intra-Community acquisition in Finland. In this case the company is liable to account for Finnish VAT on the intra-Community acquisition. If the company or the branch is not registered for VAT purposes in Finland, the company is liable to register for VAT purposes in Finland. However, on the basis of the reverse charge rules or on the basis of the simplified procedures applicable for example to consignment stocks, the foreign company might avoid the liability to register for VAT purposes in Finland.

## Place of supply of services

### General provision

As mentioned above VAT is levied only on taxable transactions, which take place in Finland. There are several provisions in the Finnish VAT Act according to which the place of supply of services is determined. According to the general provision of the Finnish VAT Act the services are sold in Finland if the supplier has a fixed establishment in Finland from which the service is supplied. When the service is not supplied from any fixed establishment, the service is deemed to be supplied in Finland if the supplier has his domicile in Finland. However, there are several exceptions to this general provision.

### Supply of intangible services e.g. management services

Intangible services are deemed to take place in Finland if the purchaser has a fixed establishment in Finland to which the service is supplied. In case the service is not supplied to a fixed establishment, the supply is deemed to take place in Finland if the purchaser has his domicile in Finland.

The mentioned provisions apply for example to services of consultants, engineers, lawyers, accountants, transfers and assignments of licenses and patents, data processing, supply of information and other similar services. In the Finnish tax practise also management services have been considered as intangible services.

Consequently, if a foreign company invoices a management fee to its Finnish subsidiary, the supply of the management services is usually considered to take place in Finland. In this case the Finnish subsidiary is liable to pay Finnish VAT on the management fees invoiced by the foreign parent company on the basis of the reverse charge rules.

On the other hand, if the Finnish subsidiary of a foreign company supplies management services to the foreign parent company, which does not have a fixed establishment in Finland, the supply is not considered to take place in Finland. In this case the supply is not subject to Finnish VAT.

Furthermore, it should be noted that a foreign company and its Finnish branch are considered to be the same legal entity. Consequently, the management services charged between a foreign company and its Finnish branch are not subject to VAT in Finland, because the supplies are considered to be made within the same legal entity.

### Services of commission agents

Commission agents acting in their own name but on behalf of the principal are considered to purchase the goods from the principal and to supply the goods to customers. Consequently, if a foreign company supplies goods to Finnish customers and uses its Finnish subsidiary as a commission agent, the parent company is considered to supply the goods to the subsidiary and the subsidiary is considered to supply the goods to the Finnish customers.

If the supply made by the principal is an intra-Community supply of goods, the commission agent is considered to make an intra-Community acquisition of goods. In this case the taxable value of the intra-Community acquisition made by the commission agent is the price of the goods minus the commission fee paid by the principal to the commission agent. The commission fee paid by the principal to the commission agent is considered as a profit margin of the agent regarding the supplies of the goods made by the agent to the Finnish customers.

### Intermediary services

The services of intermediaries who act for and on behalf of another person are deemed to take place in Finland if the goods or services in question are supplied in Finland. However, the supply of intermediary services is deemed to take place in Finland if the customer uses a Finnish VAT identification number in the purchase of the service. On the other hand, if the purchaser uses a foreign VAT identification number, the services are not deemed to take place in Finland.

Consequently, if a Finnish subsidiary of a foreign company supplies intermediary services to the foreign company and the foreign company uses its foreign VAT identification number, the supply of the intermediary services is not subject to VAT in Finland.

# Exemptions

## Exemptions with credit (zero-rate)

VAT is not levied on goods that are consumed abroad. Therefore, the exportation and intra-Community supplies of goods are zero-rated.

Zero-rate is also applicable to subscribed newspapers and periodicals. Also ships that are over 10 metres long and for other than pleasure purposes are zero-rated.

Input VAT related to the zero-rated supplies of goods or services is deductible to the supplier.

It should be noted that the supply or other transfer of goods in connection with the transfer of a business or part thereof is not considered as a supply in Finland and thus, not subject to VAT. In this case, the transfer of business or assets must be made to the transferor's successor who then uses the transferred goods for the purpose qualifying for VAT deduction. The transferee must be VAT registered at the time of the transfer. If the conditions are not met, the transfer is subject to VAT.

## Exemptions without credit

According to the Finnish VAT Act certain supplies are exempt from VAT. The supplier of exempt goods or services does not have the right to deduct input VAT on goods and services purchased for these transactions.

For example the following activities are exempt from VAT:

- Supplies by persons with annual turnover not exceeding EUR 8,500;
- Services supplied by authors, artists and other public performers;
- Certain financial and banking services;
- Social welfare services, health care and medical treatment, insurance services;
- Certain educational services;
- Lottery tickets; and
- The grant and transfer of the right to use immovable property or dwelling.

# VAT registration

## VAT registration liability

As a rule, supplies of goods and services in the form of business operations are subject to VAT in Finland. The person liable to tax for the supplies is in general the supplier. Furthermore, VAT is imposed on imports and intra-Community acquisitions of goods in Finland.

Non-resident suppliers of goods and services have an obligation to register for VAT purposes in Finland and charge Finnish VAT if they have a fixed establishment here. If non-resident suppliers make intra-Community acquisitions or intra-Community supplies in Finland they are subject to notification duty. A VAT registration liability will also be created if a foreign company supplies goods or services in Finland to which the reverse charge rules do not apply.

Non-resident parties liable to register for VAT purposes in Finland do not have to appoint a VAT representative. A VAT registration is a direct VAT registration i.e. a company is registered in its own name.

According to the Finnish VAT Act, fixed establishment means a permanent place of business in which the company conducts its operations either wholly or in part. According to the National Board of Taxes, place of business means for example a plant, a room or equivalent used in the company's business operations. A place of business can also be located in the premises of another company. If a foreign company does not have personnel or other persons under the authority of the company in Finland or such personnel or other persons do not conduct operations in Finland, the company is not considered to have a fixed establishment in Finland. It is of no significance whether the persons in question have the authority to make contracts in the name of the foreign company.

Building and installation projects, either individual projects or several successive ones, which last longer than nine months are considered to form a fixed establishment.

It should be noted that in order to be entitled to register for VAT purposes in Finland a foreign company has to carry out its operations subject to VAT from a fixed establishment in Finland. If the company has a fixed establishment in Finland, but does not carry out taxable transactions in Finland, the company is not liable to register for VAT purposes in Finland.

VAT registration alone does not constitute a permanent establishment for corporate income taxation in Finland.

## Reverse charge rules

As mentioned above, foreign suppliers have an obligation to register for VAT purposes in Finland and charge Finnish VAT if they have a fixed establishment here. If a foreign supplier is not registered for VAT purposes in Finland and it does not have a fixed establishment in Finland, as a rule the reverse charge mechanism applies to the supplies made by the foreign supplier in Finland. When the reverse charge rules apply, Finnish customers are liable to pay the Finnish VAT due on the supplies on behalf of the foreign supplier. Consequently, if the reverse charge rules apply, the foreign supplier does not have to register for VAT purposes in Finland.

The reverse charge rules do not apply in the following situations:

- The customer of a foreign supplier is a non-resident company without a fixed establishment in Finland and the customer is not VAT registered either;
- The customer is a private individual;
- The distance selling of goods (threshold is set at EUR 35,000);
- The supply of passenger transport;
- Supply of training, scientific services, cultural, entertainment or sports events or similar kind of services, including services related directly to the arrangement.

If the reverse charge rules do not apply to the supplies of goods or services by a foreign company in Finland, the foreign company has to register for VAT purposes in Finland.

Recipients of goods or services subject to reverse charge must account for output VAT on the goods or services as VAT payable on the VAT return. However, subject to the normal rules, the VAT is also deductible as input VAT on the same VAT return. Consequently, if the VAT is deductible the recipient does not have to pay the VAT in practice.

## Voluntary VAT registration

The reverse charge rule is not mandatory in Finland. Non-resident parties that are not obliged to register for VAT purposes in Finland are entitled to register for VAT purposes on a voluntary basis, provided that they make supplies of goods or services in Finland.

In case of voluntary registration of a non-resident business from a non-EU country, which has not concluded an agreement on administrative assistance in indirect tax matters with Finland, the non-resident business is obliged to appoint a fiscal representative in Finland to comply with the administrative obligation arising from the registration. The fiscal representative is not liable for the VAT due.

The VAT representatives have to be approved by the regional tax office. They are liable to keep records of the non-resident's business operations, but they are not responsible for payment of VAT levied on the non-resident parties registered for VAT purposes in Finland.

## Date of VAT registration

In the case of a voluntary registration the applicant is entered in the VAT register at the earliest on the day on which the application has arrived at the regional tax office. However, in case of a mandatory registration the VAT registration can also take place retroactively.

If a foreign company is liable to register for VAT purposes in Finland and it carries out business transactions subject to VAT in Finland before the VAT registration, it should be noted that the company is liable for the payment of the VAT due even though it has not yet been registered for VAT purposes in Finland. If the VAT is overdue due to the late or lack of registration, the company has to pay late payment interest and tax increase. Furthermore, it should be noted that the shareholders are liable for the payment of VAT due on the basis of the transactions carried out by a company, which has not been entered in the Trade Register.

## VAT Group

The group registration is limited to such groupings of entrepreneurs, which include entrepreneurs who mainly supply tax-exempt financial or insurance services. The group can include several financially, economically and organisationally closely related companies involved in financial or insurance activities. In addition, the group can include companies over which a company (or companies) involved in financial or insurance activities exercises either direct or indirect control. A company is considered to exercise control over another company when it controls the majority of the voting rights or is entitled to appoint the majority of the members of the board of directors or corresponding body and this majority is based on ownership, membership, articles of association, deed of partnership or similar rules or other arrangement.

The group registration may take place upon application of the companies concerned. Consequently, the tax authorities cannot on their own initiative treat companies as a group.

# VAT returns and payment of VAT

The VAT return shall be filed monthly. The monthly VAT return covers the supplies made during the month in question. However, during the accounting year VAT may be accounted for each month according to the invoicing dates and thus, the VAT return covers the supplies invoiced during the month in question.

The goods supplied and the services rendered to customers during the last month of the accounting year have to be included in the last VAT return for the year even if they have not been invoiced yet. However, if a customer has paid for the supply in advance, the VAT on the advance payment has to be included in the monthly VAT return filed for the month during which the payment was received.

VAT on intra-Community acquisitions of goods is included in the VAT return of the month following the month of the arrival in Finland. However, if the supplier receives an invoice during the same month as the goods have arrived, the VAT on the acquisition shall be reported in the VAT return of the month of arrival.

The amount of zero-rated intra-Community supplies of goods is reported in the VAT return of the month following the month of dispatch or transfer of the goods. However, if the customer is invoiced during the month of dispatch or transfer, the intra-Community supplies are reported in the VAT return for the month of dispatch or transfer.

The monthly VAT return shall be filed at the latest on the 15th of the second month following the month in question. For example the VAT return for January 2008 has to be filed on March 15, 2008 at the latest. The VAT payment is due on the same day.

The above-mentioned obligations regarding monthly VAT returns and payments of the VAT due are the same whether the taxable person in question is a foreign company, a Finnish branch of a foreign company or a Finnish subsidiary of a foreign company.

In addition, a taxpayer involved in intra-Community trade may be obliged to file EC Sales Lists and Intrastat returns.

# VAT reclaims

## VAT deduction

If a foreign company is registered for VAT purposes in Finland, the company is entitled to deduct the input VAT in its monthly VAT returns in Finland. The deduction is allowed on the condition that the goods or services are used in the taxable business activity of the company. However, there are certain purchases, which are not eligible for deduction even though the purchases have been made for the business activity of the company.

For example the following supplies are specifically denied input VAT deduction:

- Those for any kind of private consumption;
- Entertainment and representation costs;
- Motorcycles and passenger cars if the motorcycle or the car is used also for private motoring.

Purchases relating to VAT exempt or non-taxable activities are not deductible.

## VAT refund to foreign businesses

If a foreign company does not have a permanent establishment and is not liable to register for VAT purposes in Finland, the company can apply for a refund of the Finnish input VAT (8th or 13th Directive refund). In other words, the company can apply for a refund of the Finnish VAT included in the purchase prices of goods or services bought by the company in Finland. However, it should be noted that the restrictions related to the right to deduction apply also to the VAT refunds to foreign businesses.

The refund application must be made on a form approved by the National Board of Taxes. The application has to be submitted to the Uusimaa Regional Tax Office. Original invoices and/or customs clearance decisions in which the VAT has been specified must be attached to the application. An official certificate issued by the local authorities stating the nature of the applicant's business during the period to which the application relates must be attached as well. The application must be made within six months at the latest after the end of the calendar year to which the application relates.

The application must cover a period of at least three consecutive months within one calendar year and at most one calendar year. An application relating to the end of the year may cover a period of less than three months.

If an application for refund of VAT relates to an entire calendar year or its end, the refundable VAT must be at least EUR 25. Otherwise, the refundable sum must be at least EUR 200.

A foreign company registered for VAT purposes in Finland cannot apply for a refund of VAT to foreign businesses. If a foreign company has a branch in Finland, neither the branch nor the foreign company is entitled to apply for a refund of VAT in Finland, because the branch and the company are considered to be the same legal entity. If a Finnish subsidiary of a foreign company is registered for VAT purposes in Finland, the foreign company is entitled to apply for a refund of VAT to foreign businesses in Finland.

# Invoicing

The VAT invoices must include the following information:

1. Date of issue of the invoice
2. Sequential identifying number
3. VAT identification number used by the supplier (or the business identity code)
4. VAT identification number used by the customer if the customer is liable to account for VAT or in case of intra-Community supplies
5. Full name and address of supplier and customer
6. Quantity and nature of the goods supplied or the extent and nature of the services rendered
7. Date on which the supply of goods or of services was made or completed and date of advance payment, if it can be established and it is other than the date of issue of the invoice
8. Taxable amount per VAT rate, or exemption, the unit price excluding VAT and any discounts given, unless these are included in the unit price
9. VAT rate applied
10. Total amount of VAT chargeable expressed in Euros
11. When the supply is exempt or zero-rated; reference to the exemption
12. If an invoice alters an invoice previously issued, the new invoice must refer specifically and clearly to the initial invoice

Electronic invoicing is allowed provided that the customer agrees to receive invoices electronically and the authenticity of the origin and integrity of the invoices is guaranteed. No special method (Advanced Electronic Signature, EDI) is required.

# Guidance and advance ruling

Tax offices give guidance in matters relating to value added taxation. The tax office is bound by a guidance issued in written and thus, a debiting decision or a reassessment of tax can not be carried out against the guidance when it has been complied with by the taxpayer.

Taxpayers may apply for advance ruling on issues regarding value added tax at the Central Tax Board and at tax offices. Rulings given by the Central Tax Board are issued only on matters that are considered important on a general level or when there is some other special reason for issuing an advance ruling.

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