

## VALUE ADDED TAX ACT

### NOTICES TO READERS:

#### 1) Legal status

The translation below is unofficial. It has been made for the purpose of facilitating the understanding of the Finnish value added tax system and legislation abroad. However, it must be pointed out that the translation has no legal force. Only the Finnish and Swedish texts published in the Statute Book of Finland constitute documents of legal reference.

#### 2) Updating

Amendments of the Act, which have entered into force on and before 1. July 2003 have been taken into account in the translation.

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**N° 1501****Value Added Tax Act**

of 30 December 1993

## TITLE I

**Chapter 1****General scope****Article 1**

In accordance with the present Act, value added tax is payable to the State:

- 1) on the sales of goods and services in the conduct of business, which take place in Finland,
- 2) on the importation of goods, which takes place in Finland,
- 3) on the intra-Community acquisition of goods, referred to in Article 26 a, which takes place in Finland,
- 4) on the removal of goods from warehousing arrangements, as referred to in Article 72 I, which takes place in Finland.

Tax is payable on the taking into private use of services related to the holding of immovable property referred to in Article 32, even in those cases where that use does not take place in the conduct of business.

Sales are not considered to take place in the conduct of business if the consideration constitutes a wage or salary referred to in Article 13 of the Prepayment and Withholding Tax Act (1118/96).

Separate provisions in the Car Tax Act (1482/94) apply in respect of the value added tax payable on the car tax.

**Article 1 a**

For the purposes of the present Act, Finland means Finland's value added tax territory, as defined in the legislation of the European Communities, and the province of Åland. *Foreign countries* mean all other territories.

The Member States and *the Community* mean the value added tax territory of a Member State and of the Community, as defined in the legislation of the European Communities.

Separate provisions concerning derogations from the provisions of the present Act in respect of the province of Åland are included in the Act on Derogations Concerning the Province of Åland from the Provisions of the Value Added Tax and Excise Duty Legislation (1266/1996).

## Chapter 2

**Liability to tax***General provisions***Article 2**

The person liable to pay value added tax (*person liable to tax*) is the seller of the goods or services in the case of sales referred to in Article 1, unless otherwise provided for in Article 2a, Article 8a or Article 9.

The provisions of Chapter 9 apply in respect of the liability to pay tax on the importation of goods and the provisions of Article 72 m in respect of the liability to pay tax on the removal of goods from warehousing arrangements.

**Article 2a**

The person liable to tax on the resale referred to in Article 72 g is the purchaser, if the seller has made the entries prescribed in Article 209 a, paragraph 4 on the sales receipt.

**Article 2 b**

The person liable to tax in the case of intra-Community acquisitions of goods referred to in Article 1, paragraph 1, section 3), is the person who has made the acquisition.

*Small-scale activity***Article 3**

The seller is not considered to be a person liable to tax if his turnover during a calendar year does not amount to more than EUR 8,500 unless he has been registered as a person liable to tax at his own request.

The turnover referred to in paragraph 1 above includes the total amount of taxable sales, exempt sales by virtue of Articles 55, 56, 58 and 70-72 e, supplies of immovable property or transfers of rights relating thereto, as well as sales of financial services referred to in Article 41 and of insurance services referred to in Article 44. The turnover does not include the selling prices of financial and insurance services of an ancillary nature or of fixed assets.

The provisions of paragraph 1 do not apply to:

- 1) foreigners without a fixed establishment in Finland, nor to
- 2) municipalities.

*Corporate bodies for promoting the public good***Article 4**

A corporate body for promoting the public good referred to in the Income Tax Act (1535/92) is liable to tax only to the extent that the income, which has been derived from its activity is regarded as taxable business revenue for the corporate body, in accordance with the said Act. Nevertheless, a corporate body for promoting the public good is liable to tax for the taking of services consisting of the serving of food and beverages into private use, under the preconditions laid down in Article 25 a, and for the

taking of services related to the holding of immovable property into private use, under the preconditions laid down in Article 32.

*Religious societies*

**Article 5**

Religious societies referred to in the Income Tax Act are not liable to tax for their activity referred to in Article 23, paragraph 3 of the mentioned Act.

*Public bodies*

**Article 6**

The State and the municipalities are liable to tax for their activities referred to in Article 1.

Municipalities are liable to tax on the sales of goods, which they have acquired as fixed assets for a purpose, which entitles the municipalities to a refund in accordance with Article 130, even when the sales are not made in the conduct of business.

Municipalities and the Helsinki Metropolitan Area Council are liable to tax for passenger transport, which they conduct or organise, even when that activity does not take place in the conduct of business.

**Article 7**

State owned public utilities, the State Procurement Centre, the State Clothing Factory, the Emergency Supply Centre, the State Granary, the Bank of Finland and the National Basic Pension Institution are separately liable to tax for their activities referred to in Article 1.

The provisions below concerning the State do not apply to the institutions referred to in paragraph 1.

**Article 8**

The provisions concerning municipalities also apply to a federation of municipalities and to the province of Åland.

*Purchasers of gold*

**Article 8 a**

In respect of the taxable sales, referred to in Article 43 c, paragraph 1, of investment gold referred to in Article 43 b, paragraph 1, as well as in respect of sales of gold material and semi-manufactured gold products of a purity of 325 thousandths or greater the purchaser is liable to tax, if the purchaser is entered in the register of persons liable to value added tax referred to in Article 172. Tax need not be paid if the State is the purchaser.

*Foreigners*

**Article 9**

If a foreigner does not have a fixed establishment in Finland, and if he has not applied for registration as a person liable to tax by virtue of Article 12, paragraph 2, the purchaser is liable to tax for the goods and services, which the foreigner has sold in Finland. Tax need not be paid if the State is the purchaser.

Nevertheless, the seller is always liable to tax if:

- 1) the purchaser is a foreigner who does not have a fixed establishment in Finland and who has not been entered in the register of persons liable to value added tax,
- 2) the purchaser is a private person,
- 3) the matter concerns sales of goods referred to in Article 63 a, or
- 4) the matter concerns passenger transport services, or services referred to in Article 67 section 1).

#### **Article 10**

A foreigner means an entrepreneur who has his domicile abroad. A natural person has his domicile abroad if he is resident outside Finland and does not stay here permanently.

#### **Article 11**

A fixed establishment means a permanent place of business, where it is wholly or partly conducted. In the case of building or installation activities the object of a contract, or the objects of several successive contracts are considered as a fixed establishment, if the work is in progress for longer than 9 months.

#### *Application to be registered as a person liable to tax*

#### **Article 12**

Notwithstanding the provisions of Articles 3 - 5 and 60, an entrepreneur may on application be registered as a person liable to tax.

Notwithstanding the provisions of Article 9 and under the preconditions set out in Article 173 a, a foreigner may on application be registered as a person liable to tax in respect of his sales in Finland.

The provisions of Article 30 apply in respect of the right to be registered as a person liable to tax on application, for the purpose of the supply of immovable property.

#### *Partnerships*

#### **Article 13**

If two or more parties have formed a partnership for the purpose of conducting business and if the partnership is intended to work for the joint benefit of the partners, the partnership is the person liable to tax.

#### *Taxation of groups*

#### **Article 13 a**

On application of two or more entrepreneurs a Regional Tax Office may decide that they shall be considered as one single person liable to tax for the purposes of the present Act (*a group of persons liable to tax*). All the entrepreneurs must have their domicile or a fixed establishment in Finland.

Only the following entrepreneurs can belong to a group of persons liable to tax:

- 1) An entrepreneur mainly selling the financial services referred to in Article 41, or the insurance services referred to in Article 44, paragraph 1,
- 2) A holding company referred to in Article 4 of the Credit Institutions Act (1607/1993), or the parent corporation of a group of insurance companies referred to in Article 11, paragraph 3 of the Accounting Decree (1575/1992),
- 3) An entrepreneur in whose enterprise the entrepreneurs referred to in sections 1) and 2) are in a position to use the powers corresponding to those referred to in Article 22 b of the Accounting Act,
- 4) An entrepreneur in whose enterprise the entrepreneurs referred to in sections 1) – 3) jointly are in a position to use the powers referred to in Article 22 b of the Accounting Act as well as an entrepreneur, who is subject to the powers referred to in section 3) exercised by the first mentioned entrepreneur.

A precondition for approving the application is that the entrepreneurs concerned have close financial, economic and administrative connections with each other.

An entrepreneur may belong to only one group of persons liable to tax.

#### **Article 13 b**

The group of persons liable to tax shall appoint from among its members an entrepreneur who is responsible for the fulfilling of the declaration and accounting obligation on the group of taxable persons referred to in the present Act and who is entitled to apply for a tax refund referred to in the Act.

#### **Article 13 c**

A reindeer grazing association referred to in the Reindeer Husbandry Act (848/90) and a reindeer owner who belongs to such an association are treated as a single entrepreneur for the purpose of value added taxation in respect of reindeer management (*a reindeer grazing association group*). Article 22 a applies when a reindeer owner who belongs to a reindeer grazing association group takes goods or services into private use,

The reindeer grazing association and the reindeer owners who belong to it are responsible for the tax of the reindeer grazing association group.

A reindeer grazing association is responsible for the fulfilling of the declaration and accounting obligation on the reindeer grazing association group and entitled to apply for a tax refund.

A tax period of a reindeer grazing association group is a reindeer husbandry year. The tax return for the tax period shall be submitted and the tax shall be paid not later than the end of July of the year following the reindeer husbandry year.

Matters concerning a reindeer grazing association group are dealt with by the Regional Tax Office within whose jurisdiction the reindeer grazing association has its domicile.

#### *Bankrupt's estate*

#### **Article 14**

A bankrupt's estate is separately liable to tax for the business, which it carries on independently after the entrepreneur has been declared bankrupt.

*The time at which the liability to pay tax arises*

**Article 15**

The liability to pay tax on sales in accordance with Article 1 arises when:

- 1) the sold goods have been delivered or the service has been performed,
- 2) the consideration or a part thereof has accrued before the time referred to in section 1),
- 3) the payment referred to in Article 79 has been received,
- 4) goods or services have been taken into private use.

A comprehensive maintenance service of a public road or railroad, referred to in Article 29, paragraph 1, section 9) below is considered to have been performed in the manner referred to in paragraph 1, section 1) at the end of the period of calculation of the traffic intensity.

**Article 16**

The liability to pay tax on the taking of building services into private use arises:

- 1) in the same stages and at the same pace as the self-performed building services progress,
- 2) when purchased building services have been received, or when the consideration or a part thereof has been paid before the time of reception,
- 3) when immovable property referred to in Article 33 has been supplied or taken into private use.

**Article 16 a**

The liability to pay tax on intra-Community acquisitions of goods arises when the acquisitions have been effected. The acquisitions of goods are effected at the time when the goods have been received or would have been taken into private use.

Chapter 3

**Taxable sales**

*Sales of goods and services*

**Article 17**

Goods mean tangible property, as well as electricity, gas, heat, refrigeration and other comparable energy resources. Services mean everything else which may be sold in the conduct of business.

**Article 18**

Sales of goods mean the transfer of the right of ownership to a good for consideration.

Sales of services mean the performance, or other supply of services for consideration.

#### **Article 18 a**

The transfers of goods, which form part of the assets of the business conducted by an entrepreneur in Finland, from Finland to another Member State, for the purpose of the entrepreneur's business transactions, are also considered as sales of goods.

#### **Article 18 b**

The goods are not considered to have been sold as set out in Article 18 a, if the entrepreneur, or someone else on his behalf, transfers the goods:

- 1) for the purpose of performing work, which is to be sold to him, on goods in the Member State of destination of the transport, and the goods are returned to him in Finland after having been worked upon,
- 2) temporarily, for the purpose of his sale of services,
- 3) temporarily for such purposes, which would entitle to temporary importation procedure with total relief from customs duties, if it were question of an importation from a place outside the Community,
- 4) for the purpose of sales referred to in Article 63 c, or
- 5) for the purpose of fulfilling a sale referred to in Articles 63, paragraph 3, 63 b, 70, 72 a or 72 d.

When any of the preconditions set out in paragraph 1 ceases to apply, the goods are considered to have been transferred to another Member State within the meaning of Article 18 a.

#### **Article 19**

When goods or services are sold in the name of an agent on account of the principal, the agent is regarded as having sold the goods or services to the purchaser and the principal is regarded as having sold them to the agent.

When goods or services are purchased in the name of an agent on account of the principal, the agent is regarded as having sold the goods or services to the principal and the seller is regarded as having sold them to the agent.

#### **Article 20**

The taking of goods or services into private use in accordance with the provisions of Articles 21-26 is also regarded as a sale.

#### *Private use of goods*

#### **Article 21**

The taking of goods into private use means that an entrepreneur:

- 1) takes goods for private consumption,

- 2) supplies goods without consideration, or for a considerably lower consideration than the current value of the goods,
- 3) transfers or takes goods for purposes of use other than those, which under the provisions of Chapter 10 entitle to deduction.

The provisions of paragraph 1 concerning the private use of goods apply only if a deduction could have been made, or if the goods have been manufactured in connection with taxable business.

When the liability to tax ceases, tax shall be paid on those goods, which remain in the possession of the person liable to tax, in accordance with the provisions concerning goods, which are taken into private use.

### *Private use of services*

#### **Article 22**

The taking of services into private use means that an entrepreneur:

- 1) performs, or otherwise takes services into private consumption,
- 2) supplies services without consideration, or for a considerably lower consideration than the current value of the services,
- 3) performs or otherwise takes services for purposes of use subject to the restrictions of the right to deduct set out in Article 114,
- 4) otherwise takes purchased services for purposes of use other than those, which entitle to deduction.

The provisions of paragraph 1 concerning the private use of services apply only if:

- 1) the right to deduct could have been exercised in respect of the purchased services,
- 2) a self-performed service has been performed in connection with taxable business and if the entrepreneur sells similar services to outsiders.

When the liability to tax ceases, tax shall be paid on the services, which remain in the possession of the person liable to tax, in accordance with the provisions concerning services, which are taken into private use.

#### **Article 22 a**

No tax is payable on the taking of goods or services into private use when the entrepreneur to a small extent takes goods or services into his own or his family's private consumption.

### *Special provisions*

#### **Article 23**

The provisions of Articles 31-33 also apply to the taking into private use of building services and services related to the holding of immovable property.

#### **Article 24**

The provisions of Article 21 concerning the taking of goods into private use also apply when usufructuary rights to goods owned by the entrepreneur are taken into private use.

#### **Article 25**

A supply in the form of commercial samples or of customary advertising gifts is not considered to mean that goods are taken into private use.

#### **Article 25 a**

Services consisting of the serving of food and beverages supplied to the staff are also considered as having been taken into private use, even when such services are not supplied in connection with taxable business and when similar services are not sold to outsiders.

#### **Article 26**

The State is not liable to pay tax for the taking of goods or services into private use. Nevertheless, the State is liable to pay tax when it takes into private use services consisting of the serving of food and beverages in the cases referred to in Article 25 a and when it takes into private use building services in the cases referred to in Article 31, paragraph 1.

### **Chapter 3 a**

#### **Intra-Community acquisition of goods**

#### **Article 26 a**

An intra-Community acquisition of goods means an acquisition for consideration of the right of ownership to movable property, if the seller, the purchaser, or someone else on their behalf, transports the property to the purchaser from one Member State to another.

The following transactions also constitute intra-Community acquisitions of goods:

- 1) the transfer to Finland of goods, which form part of the assets of the business conducted by an entrepreneur in another Member State, for the purpose of the entrepreneur's business transactions in Finland,
- 2) the transfer of goods forming part of the entrepreneur's business assets from another Member State to Finland, in cases other than those referred to in section 1), for the purpose of use in business conducted in Finland, when the goods have been acquired or manufactured in the Member State concerned.

The acquisition of goods is not regarded as an intra-Community acquisition if it concerns a sale referred to in Article 63, paragraph 3 or in Article 63 a.

#### **Article 26 b**

Goods are not considered as having been acquired within the meaning of Article 26 a, paragraph 2, if the entrepreneur, or someone else on his behalf, transfers the goods:

- 1) for the purpose of performing work, which is to be sold to him, in Finland on goods and the goods are returned to him to the Member State, from which the goods were originally dispatched, after being worked upon,
- 2) temporarily for the sale of services by him,
- 3) temporarily for such purposes, which would entitle to temporary importation procedure with total relief from customs duties, if it were question of an importation from a place outside the Community,
- 4) for the purpose of a sale referred to in Article 63 c, or
- 5) for the purpose of completion of a sale referred to in Articles 70, 72 a or 72 d.

When any of the preconditions set out in paragraph 1 ceases to apply, the goods are considered to have been transferred to Finland within the meaning of Article 26 a, paragraph 2, sections 1) or 2).

#### **Article 26 c**

An intra-Community acquisition referred to in Article 26 a above is involved only if:

- 1) the purchaser of the goods is an entrepreneur or a legal person who is not an entrepreneur and the seller is an entrepreneur, who does not in his own country conduct exempt small-scale business, or
- 2) the goods are new means of transport, referred to in Article 26 d.

However, an intra-Community acquisition is not involved where the value of the acquisitions, excluding tax, with the exception of new means of transport, of goods subject to excise duty and of acquisitions referred to in paragraph 3, does not exceed EUR 10,000 per calendar year, provided that:

- 1) the intra-Community acquisitions during the preceding calendar year did not exceed EUR 10,000, and that
- 2) the purchaser is an entrepreneur whose activity does not entitle to any deduction at all, or a legal person who is not an entrepreneur, and that the purchaser has not obtained a decision referred to in Article 26 f.

Furthermore, an intra-Community acquisition is not involved if:

- 1) the sale of the goods would not be subject to tax, by virtue of Article 58, or Article 70, paragraph 1, sections 6) or 7), if the sale had taken place in Finland,
- 2) the acquisition of the goods would entitle to the refund referred to in Article 127, if the sale had taken place in Finland, or
- 3) the purchaser is an international organization, or a member of its staff, which by virtue of the treaty establishing the organization or the headquarters agreement, would be entitled to a refund of the tax included in the acquisition, if the sale had taken place in Finland.

Paragraph 2 of the present Article does not apply to new means of transport, nor to goods subject to excise duty.

Furthermore, an intra-Community acquisition is not involved if a procedure corresponding to the one referred to in Article 79 a has been applied to the sale of the goods in the State where the transport began. A precondition is that the sales receipt given by the foreign dealer liable to tax bears a note to the effect that the above mentioned procedure has been applied in respect of the sale.

#### **Article 26 d**

Means of transport mean:

- 1) motorized land transport vehicles, whose engine has a cylinder volume of more than 48 cm<sup>3</sup> or power of over 7.2 kW,
- 2) vessels with a length in excess of 7.5 metres,
- 3) aircraft with a maximum permissible take-off weight in excess of 1 550 kg, which are appropriate for the transport of passengers and goods.

A means of transport is new if:

- 1) a motorized land transport vehicle has been sold not more than six months and any other means of transport has been sold not more than three months after the first entry into use, or
- 2) an engine-powered land transport vehicle has been driven not more than 6 000 kilometres, a vessel has been run or sailed for not more than 100 hours, or an aircraft has been flown for not more than 40 hours.

However, such vessels or aircraft, which by virtue of Article 58 or Article 70, paragraph 1, section 6) may be sold exempt are not regarded as means of transport.

#### **Article 26 e**

For the purposes of the present Act, goods subject to excise duty mean goods referred to in Article 3 of the Act on Excise Duty on Alcohol and Alcoholic Beverages (1471/94), in Article 2, paragraph 1 of the Act on Excise Duty on Manufactured Tobacco (1470/94) and in Article 2, paragraph 1 of the Act on Excise Duty on Liquid Fuels (1472/94).

#### **Article 26 f**

Upon application by a purchaser referred to in Article 26 c, paragraph 2, section 2), a Regional Tax Office decides that the purchaser's acquisitions are to be regarded as intra-Community acquisitions, even if the value of the acquisitions does not exceed the amount mentioned in that section.

#### **Article 26 g**

Goods are also regarded as having been transported from a Member State within the meaning of Article 26 a, paragraph 1, when the transport begins from a place outside the Community and ends in a Member State other than the one into which the goods have been imported, if the importer is a legal person who is not an entrepreneur.

### **Chapter 4**

#### **Exemptions from taxable sales**

##### *Supplies of immovable property*

#### **Article 27**

Tax is not payable on the sale of immovable property or on the transfer of leasing rights to land, of tenancy rights, of rights to easements, or of comparable rights in respect of immovable property.

Nor is tax payable on the supply of electricity, gas, heat, water or a similar resources in connection with the exempt transfer of rights to use immovable property.

#### **Article 28**

Immovable property means an area of land, a building and a permanent structure, or some part thereof.

Machinery, appliances and equipment, which are used for a particular activity pursued on the above mentioned premises, do not form part of the immovable property.

Residential movable property, which is customarily related to a sale or lease of immovable property, is subject to the provisions concerning immovable property.

### **Article 29**

Notwithstanding the provisions of Article 27, tax is payable:

- 1) on the sale of building services,
- 2) on the sale of the right to take soil or stone substance, or sale of logging rights, hunting or fishing rights,
- 3) on the transfer of right to use rooms, camping sites, cabins or other similar premises in connection with hotel and camping activity and comparable accommodation activity,
- 4) on the occasional transfer of the right to use conference, exhibition or sports premises, or other similar premises,
- 5) on the supply of parking places as part of a parking activity,
- 6) on the supply of harbour or airfield facilities for use by vessels or aircraft,
- 7) on the transfer of rights to use safe-deposit boxes,
- 8) on the supply of publicity or advertising space, places for amusement machines or soft drinks dispensers, or for other similar devices, or for games, on immovable property,
- 9) on the supply to the State of comprehensive maintenance services in respect of a public road or railroad.

Comprehensive maintenance services referred to in paragraph 1, section 9) above mean the building and maintenance services of a public road or railroad, where the consideration is determined on the basis of the quantity of traffic, or on the basis of some other indicator of the intensity of use of the road or railroad (traffic intensity).

### **Article 30**

By way of derogation from the provisions of Article 27, tax is payable for the transfer of rights to use immovable property, if the transferor applies for registration as a person liable to tax in respect of this activity. The liability to tax applies only to the immovable property or part of it, which is specified in the application. A precondition for the status as a person liable to tax is that the immovable property is continuously used for an activity, which entitles to deduction, in accordance with Chapter 10, or that the immovable property is used by the State.

A precondition for the liability to tax of the transferor referred to in paragraph 1 is that also the transferee applies for registration as a person liable to tax, if the transferee transfers the right to use immovable property onward.

A real estate company, the shareholder of which uses the part of the immovable property, which his shares entitle him to hold, or leases it out, may apply for registration as a person liable to tax only if the shareholder has the right to deduct in full the tax included in the consideration, or if the shareholder is the State.

The above provisions concerning real estate companies and their shareholders are also applied to other limited liability companies and co-operative societies, whose purpose is to hold immovable property, and to their shareholders and members.

### **Article 31**

A building service is considered to have been taken into private use also when:

- 1) an entrepreneur constructs or orders the construction of a building or a permanent structure for the purpose of sale, on area of land, which he holds,
- 2) an entrepreneur sells a building service in respect of a new building to a housing company or a real estate company, in which he has a dominant position when the construction contract is concluded.

Even if an entrepreneur referred to in paragraph 1 does not sell building services to outsiders, he is liable to pay tax on the taking of the building service into private use, in accordance with the provisions of Article 22.

Building services are:

- 1) the building and repair work on immovable property, as well as the supply of goods, which are installed in connection with the work,
- 2) the planning, the supervision and corresponding services in connection with works referred to in section 1) above.

### **Article 31 a**

A building service is considered to have been taken into private use also when an entrepreneur, who sells building services to outsiders, or who pursues the activities referred to in Article 31, performs the service for purposes of use other than those, which entitle to deduction.

### **Article 32**

A service related to the holding of immovable property is considered to have been taken into private use also when the owner or holder of the immovable property performs himself the service in respect of the immovable property, if that property is used for purposes other than those, which entitle to deduction.

The owner or holder of the immovable property is not liable to pay tax if:

- 1) he mainly uses the immovable property as his residence, or
- 2) his wage and salary costs including social benefit costs, for the services related to the holding of immovable property, performed in the course of a calendar year, do not exceed EUR 30,500.

Services related to the holding of immovable property are:

- 1) the building services referred to in Article 31 above,
- 2) cleaning and other management of immovable property, as well as financial and administrative services in respect of that property.

### **Article 33**

A building service related to a new building, or to a fundamental improvement of immovable property, is regarded as having been taken into private use also when an entrepreneur sells that property, or takes it for purposes of use other than those, which entitle to deduction, if a deduction could have been made in respect of the acquisition of the building service or the immovable property, or if the entrepreneur himself has performed the building service for a use, which entitles to deduction.

Tax is not payable if the immovable property is sold or the purpose for which it was intended is changed later than five years after the end of the calendar year during which the building service was completed.

Furthermore, tax is not payable on the private use of self-performed building services, referred to in paragraph 1, in respect of wage and salary costs and related social benefit costs, if these costs for the building services performed during one calendar year do not exceed EUR 30,500. This threshold is however not applied if the entrepreneur has sold building services to outsiders or pursued an activity referred to in Article 31 at the time when the building service was completed.

#### *Health and medical care*

##### **Article 34**

Tax is not payable on the sale of health and medical care services.

Nor is tax payable when a provider of the care, in that context, supplies services and goods, which are customarily related to the care.

##### **Article 35**

Health and medical care services mean measures for determining a person's state of health, functional ability and capacity for work, or for restoring or maintaining health, functional ability and capacity for work, if the service consists of:

- 1) care in a centre for providing health and medical care, which is maintained by the State or by a municipality, or care referred to in the Private Health Care Act (152/90),
- 2) care, which is given by a health care professional, who engages in his activity on the basis of a statutory right or who is registered by virtue of law.

##### **Article 36**

Furthermore, tax is not payable on the sale of the following goods and services:

- 1) transport of patients by vehicles specially equipped for that purpose,
- 2) research and laboratory services related to health and medical care,
- 3) dental prostheses sold by dentists, dental technicians or specialized dental technicians and technical dental work on those prostheses,
- 4) mother's milk, human blood, human organs and tissues,
- 5) goods and services directly used in health and medical care, which a provider of health care services, referred to in the Private Health Care Act, or which a health care professional, referred to in article 35 section 2), supplies to another provider of health care services, or health care professional.

#### *Social Welfare*

##### **Article 37**

Tax is not payable on the sale of goods and services in the form of social welfare.

##### **Article 38**

Social welfare means activity by the State or by a municipality as well as activity by some other provider of social welfare services, provided that it is conducted under the supervision of the social welfare authorities, and where the aim of the activity is to provide for the care of children and young people, nursery day care, geriatric care, care of the mentally handicapped, other services and support measures for the disabled, for care of addicts and other similar activities.

*Education and Training***Article 39**

Tax is not payable on educational and training services.

Nor is tax payable when the provider of educational and training activities, in that context, supplies to the pupils goods and services, which customarily are related to the education and training.

Tax is not however payable on serving of food and beverages for the pupils in an educational and training institute, if the serving is provided in connection with and is customarily related to the education and training.

**Article 40**

Educational and training services mean general education and vocational training, university-level teaching and basic artistic teaching, which are organized by virtue of law, or which by virtue of law are subsidized by State funds.

*Financial services***Article 41**

Tax is not payable on the sale of financial services.

**Article 42**

The following services constitute financial services:

- 1) acquisition of repayable funds from the public and other acquisition of funds,
- 2) granting of credit and other financial arrangements,
- 3) credit management by the person granting the credit,
- 4) payment transactions,
- 5) currency exchange,
- 6) dealing in securities,
- 7) provision of guarantees.

Dealing in securities means the sale and brokerage of shares and other corresponding interests, claims and derivative agreements, also when they are not made out in documentary form.

**Article 43**

Financial services are not deemed to mean the sale and brokerage of securities, which by themselves, or together with other securities, carry the right to hold a particular apartment or immovable property, or part of an immovable property.

*Investment gold***Article 43 a**

Tax is not payable on the sale and brokerage of investment gold.

The provisions of paragraph 1 also apply to the sale and brokerage of contracts concerning the supply of a right of ownership or a claim in respect of investment gold.

#### **Article 43 b**

Investment gold means gold, in the form of a bar or a wafer of weights accepted by the bullion markets, of a purity equal to or greater than 995 thousandths.

Investment gold also means gold coins, of a purity equal to or greater than 900 thousandths:

- 1) which are minted after 1800,
- 2) which are, or have been legal tender in the country of origin, and
- 3) the normal selling price of which does not exceed the current open market value of the gold contained in the coins by more than 80 per cent.

Gold coins included in the list published for every calendar year in the "C" series of the Official Journal of the European Communities are deemed to fulfil the preconditions set out in paragraph 2 for the year of validity of the list.

The provisions of Article 59, paragraph 1, section 1) are not applied in respect of gold coins referred to in paragraphs 2 and 3 above.

#### **Article 43 c**

Notwithstanding the provisions of Article 43 a, tax is payable on the sale of investment gold to an entrepreneur, if the seller referred to in paragraph 2 opts for taxation of the sale.

Taxation of the sale may be opted by:

- 1) an entrepreneur who produces investment gold or who transforms investment gold or any other gold into investment gold, and
- 2) an entrepreneur who in his business normally sells gold for industrial purposes, if the object of the sale is investment gold referred to in Article 43 b, paragraph 1.

Notwithstanding the provisions of Article 43 a, tax is payable on the brokerage of investment gold if:

- 1) the seller of the investment gold has opted for taxation of his sale, and
- 2) the seller of the brokerage service opts for taxation of his sale.

The seller may opt for taxation in respect of every individual sale. The option for taxation of the sale is indicated by making on the invoice a note to the effect that the sale is subject to tax, as referred to in Article 209 a, paragraph 5.

### *Insurance services*

#### **Article 44**

Tax is not payable on the sale and brokerage of insurance services.

Insurance services are also deemed to mean the handling of insurance applications, services directly linked with the management of an insurance during its period of validity, services in respect of insurance financing, services in respect of the settlement, calculation and decision making concerning pensions and insurance benefits, services in relation to the payment of and the compilation of statistics on pensions and insurance benefits, services in relation to the forecasting of pension liability and of pension expenses as well as services related to the assessment of insured loss and damage related to the insurance activity.

*Performing artists' fees and certain incorporeal rights*

**Article 45**

Tax is not payable on:

- 1) fees to performing artists, to other public performers or to sportsmen,
- 2) the sale of a performance of the performer referred to in section 1), when the performance is intended to be supplied to the arranger of the event,
- 3) the transfer of the right to audio and image recordings of the performance of the performers referred to in section 1), or on remunerations paid on the basis of this right,
- 4) the transfer of rights referred to in Articles 1, 4 or 5 of the Copyright Act (404/61), or to remunerations paid on the basis of those rights.

The exemption referred to in paragraph 1, sections 3) and 4) above, does not apply to the transfer of the right to photographs, advertising works, maps or the map making material, automatic data processing systems or computer programs, nor the transfer of the right to present films, video programmes, or other similar programmes.

Nor is tax payable on the transfer of rights by virtue of the Copyright Act, or on remunerations paid on the basis of those rights, in the cases referred to in Article 13, Article 14, paragraph 1, Article 25 h, paragraphs 1 and 2, Articles 25 i, 26 a, 26 i, 47 and 47 a of that Act, when the remuneration is paid to or by an organization representing copyright holders.

(Articles 46 – 54 have been repealed)

*Newspapers and periodicals*

**Article 55**

Tax is not payable on the sale of newspapers and periodicals in the form of a subscription for at least one month.

Nor is tax payable on at least one month's supply free of charge of copies of newspapers and periodicals which are generally sold by subscription.

**Article 56**

Tax is not payable on the sale of an edition of a newspaper or periodical, published at least four times a year, to a corporation for promoting the public good, which publishes the newspaper or periodical mainly for its members or joint owners, or for the members or joint owners of its member corporations and which does not publish or sell newspapers or periodicals in the conduct of business.

(Article 57 has been repealed)

*Vessels*

**Article 58**

Tax is not payable on the sale, hiring out or chartering of vessels with a maximum hull length of at least 10 meters and which by their structure are not mainly intended for recreational or sports purposes.

Nor is tax payable on the sale of work on the exempted vessels referred to in paragraph 1, nor on goods which have been removed for repair, nor on the sale of goods used in that work or of goods, which have been installed on the vessel in connection with that work.

*Certain other goods and services*

**Article 59**

Tax is not payable on the sale of the following goods and services:

- 1) bank notes and coins which are current tender, with the exception of bank notes and coins whose selling price is determined on the basis of their value as collectors' items or of their metal value,
- 2) the organization and brokerage of lotteries referred to in Article 2, paragraph 1, section 1) of the Lottery Tax Act (552/92) and the supply of places for gaming machines or devices or games referred to in that provision, on immovable property,
- 3) services consisting of the opening and management of graves as well as other services ancillary to the actual cemetery activity, provided that they are supplied by a person who keeps a public cemetery,
- 4) the sale of gold to the Central Bank,
- 5) interpretation services for the deaf,
- 6) self-picked wild berries and mushrooms, which the person who picked them sells in their natural state, otherwise than from premises specially made up for sales purposes.

**Article 60**

Tax is not payable on the sale of goods and performance of work, if the seller is a blind person whose activity exclusively comprises the sale of self-manufactured goods, or work on goods, which he has performed himself and if he does not in his activity use any assistants other than his spouse or descendants under the age of 18 years and not more than one other person.

*Goods and services subject to restrictions on deduction*

**Article 61**

Tax is not payable on the sale of goods or services, which are used for purposes of use other than those which entitle to deduction.

*Company acquisitions*

**Article 62**

Tax is not payable on the sale or other supply of goods and services when the sale or supply takes place in connection with the transfer of an entire business enterprise, or part of it, to a transferee carrying on the business and beginning to use the goods and services for a purpose which entitles to deduction.

Tax is not payable on the supply of goods and services in connection with a bankruptcy to the bankrupt's estate, which carries on the business under the preconditions set out in paragraph 1.

The exemption referred to in paragraphs 1 and 2 does not apply to the supplies of immovable property referred to in Article 33.

If the transferee takes the goods or services referred to in paragraphs 1 or 2 for purposes of use other than those which entitle to deduction, he shall pay tax in accordance with the provisions concerning the taking of goods or services into private use.

## **Chapter 5**

### **Sales and intra-Community acquisitions in Finland**

#### *General provision concerning sales of goods*

#### **Article 63**

Goods have been sold in Finland if they are situated in this country when they are transferred to the purchaser.

Goods which are to be transported to the purchaser have been sold in Finland if they are here when the seller or someone else begins the transport, unless otherwise provided for in paragraph 3, Article 63 a or Article 63 b. Goods have also been sold in Finland if they are outside the Community when the transport begins, if the seller brings the goods to Finland in order to be sold here.

Goods which are transported from one Member State to another and which the seller installs or assembles have been sold in Finland, if the installation or assembly work is performed here.

#### *Distance selling*

#### **Article 63 a**

Sales of goods are considered to take place in Finland if the seller, or someone else on his behalf, transports the goods from another Member State to Finland. Goods are considered as having been transported from another Member State also when the transport begins from a place outside the Community, if the transport passes through the Member State into which the goods have been imported.

Paragraph 1 of this Article applies only if the purchaser of the goods is a person whose acquisition does not constitute an intra-Community acquisition in accordance with Articles 26 c and 26 f.

Paragraph 1 of this Article does not apply in so far as the sales, excluding tax, to Finland referred to in paragraphs 1 and 2 amount to not more than EUR 35,000 per calendar year, with the exception of the sales referred to in paragraphs 5 and 6, if those sales have not in total amounted to more than EUR 35,000 during the preceding year.

Paragraph 1 of this Article does however apply, regardless of the amount of the sales, if the seller has applied to the authorities in the country of departure of the transport for the sales referred to in this Article to be taxed in the country of arrival of the transport, instead of the country of departure of the transport.

The above provisions of this Article do not apply:

- 1) to sales of new means of transport,
- 2) to sales of goods which the seller installs or assembles, nor
- 3) to sales of goods to which, in the State of departure of the transport, a procedure corresponding to the one referred to in Article 79 a has been applied.

Paragraph 1 of this Article is applicable to sales of goods subject to excise duty only when the purchaser is a private person. Paragraph 1 is applicable to such sales regardless of their amount.

**Article 63 b**

Sales of goods are not considered to have taken place in Finland if the seller, or someone else on his behalf, transports the goods from Finland to another Member State.

Paragraph 1 of this Article applies only if the purchaser is:

- 1) an entrepreneur, whose activity in his own country does not entitle to any deduction at all or to a refund,
- 2) a legal person who is not an entrepreneur,
- 3) an entrepreneur who is subject to a flat rate scheme for farmers in his own country, or
- 4) a private person.

Paragraph 1 of this Article does, however, apply only if the intra-Community acquisitions of a purchaser referred to in paragraph 2, sections 1) – 3) do not exceed the threshold for taxable intra-Community acquisitions applied in the Member State in question, and if the purchaser has not applied for registration as a person liable to tax in respect of his acquisitions.

Paragraph 1 of this Article applies only in so far as the sales during a calendar year, according to paragraphs 1 - 3 above, to the State of arrival of the transport, exceed the threshold applied in the State in question, if the total amount of those sales during the preceding year has not exceeded that threshold.

Paragraph 1 of this Article does however apply regardless of the amount of sales, if the seller has made an application to the Regional Tax Office in accordance with paragraph 6.

On application by the seller the Regional Tax Office decides that the sales of goods referred to in this Article are to be taxed in the State of arrival of the transport, instead of in Finland, even if the amount of sales is below the threshold referred to in paragraph 4. The decision remains in force for the period indicated by the seller in his application, however not less than two calendar years.

The above provisions of this Article do not apply to:

- 1) sales of new means of transport,
- 2) sales of goods, which the seller installs or assembles in the State of arrival of the transport, nor to
- 3) sales of goods to which the procedure referred to in Article 79 a has been applied.

Paragraph 1 of this Article is applicable to sales of goods subject to excise duty only when the purchaser is a private person. Paragraph 1 is applicable to such sales regardless of their amount.

*Sale on board means of transport within the territory of the Community*

**Article 63 c**

Sales of goods on board vessels, aircraft or trains during passenger transport within the territory of the Community are considered to have taken place in Finland only when the place of departure of the transport is here.

Passenger transport within the territory of the Community means transport between the place of departure and the place of arrival, without stopping outside the Community. The return leg is considered as a separate transport.

The place of departure of the passenger transport means the first place of passenger embarkation within the territory of the Community. The place of arrival of the passenger transport means the last place of disembarkation within the territory of the Community.

If the means of transport stops outside the Community between the place of departure and the place of arrival, the place of arrival of the transport before the stop is considered to be the last place of arrival within the territory of the Community. The place of departure for the transport after the stop is considered to be the first place of departure within the territory of the Community.

#### *Intra-Community acquisitions*

##### **Article 63 d**

An intra-Community acquisition has taken place in Finland if the goods to be transported to the purchaser are here when the transport ends.

##### **Article 63 e**

An intra-Community acquisition is also considered to have taken place in Finland when the purchaser has used for the intra-Community acquisition a value added tax identification number issued in Finland and the transport of goods has begun in another Member State, unless the purchaser demonstrates that the intra-Community acquisition has been taxed, or that he has fulfilled his declaration obligation in respect of an intra-Community acquisition in the Member State where the transport of goods ended.

##### **Article 63 f**

An intra-Community acquisition is considered to have been taxed within the meaning of Article 63 e in the State of arrival of the transport also when:

- 1) The purchaser is an entrepreneur, who does not have his domicile in the State of arrival of the transport and who does not have a fixed establishment there,
- 2) the purchaser has purchased the goods for the purpose of resale taking place in the State of arrival of the transport,
- 3) the subsequent purchaser is an entrepreneur or a legal person other than an entrepreneur and is entered in the register of persons liable to value added tax in the State of arrival of the transport,
- 4) linked to the purchaser's intra-Community acquisition the goods have been transported directly from a Member State other than Finland to the subsequent purchaser,
- 5) the purchaser has made on the sales receipt concerning the resale, the notes referred to in Article 209 a, paragraph 4 or corresponding notes, and
- 6) the purchaser has fulfilled his declaration obligation according to Article 162 b.

#### *General provisions concerning the sale of services*

##### **Article 64**

With the exception of services referred to in Articles 65-69, services have been sold in Finland if they have been supplied from a fixed establishment situated here. If such services have not been supplied from a fixed establishment situated in Finland or abroad, they have been sold in Finland if the seller has his domicile here.

Notwithstanding the provisions of paragraph 1, a hiring-out service of transport equipment is considered to have been sold in Finland if it is factually consumed exclusively here and if it had been sold outside the Community by application of the provisions of paragraph 1. Notwithstanding the provisions of paragraph 1, a hiring-out service in respect of transport equipment is considered to have been sold abroad if it is factually consumed exclusively outside the Community,

*Services relating to immovable property***Article 65**

Services relating to immovable property have been sold in Finland if the property is situated here.

*Transport services***Article 66**

Transport services have been sold in Finland if they are performed here, unless otherwise provided for in Article 66 a, paragraph 1. Transport services which have been sold both in Finland and abroad are however considered to have been entirely sold abroad if the transport takes place directly to or from the foreign country, unless otherwise provided for in Article 66 a, paragraph 1.

The brokerage of transport services of goods has been sold in Finland if the transport services have been sold here, unless otherwise provided for in Article 66 a, paragraph 3.

**Article 66 a**

An intra-Community transport of goods has been sold in Finland, if the transport begins here, unless otherwise provided for in paragraph 2. The intra-Community transport means transport of goods from one Member State to another and transport within a Member State, which is directly linked to the above mentioned transport.

If the purchaser of the intra-Community transport of goods uses for the purchase a value added tax identification number which has been issued in some Member State, the intra-Community transport has been sold in Finland if the number in question has been issued in Finland.

The brokerage of the intra-Community transport of goods has been sold in Finland if the transport begins here, unless otherwise provided for in paragraph 4.

If the purchaser of brokerage services in respect of the intra-Community transports uses for the purchase a value added tax identification number which has been issued in some Member State, the brokerage service has been sold in Finland if the number in question has been issued in Finland.

*Certain other services***Article 67**

The following services have been sold in Finland, if they are performed here, unless otherwise provided for in Article 67 a, paragraph 1 or in Article 67 b:

- 1) educational, scientific, cultural, entertainment, sporting and other similar services, as well as services directly ancillary to their organization,
- 2) unloading, loading and other similar services ancillary to the transport of goods,
- 3) valuations of movable property,
- 4) work on movable property.

**Article 67 a**

If the purchaser of loading, unloading and other similar services ancillary to the intra-Community transport of goods, which are performed within the territory of the Community, uses for the purchase a

value added tax identification number which has been issued in some Member State, the service has been sold in Finland if the number in question has been issued in Finland.

The brokerage of a service referred to in paragraph 1 has been sold in Finland if the service subject to the brokerage is performed in Finland, unless otherwise provided for in paragraph 3.

If the purchaser of brokerage services referred to in paragraph 2 uses for the purchase a value added tax identification number which has been issued in some Member State, the brokerage service has been sold in Finland if the number in question has been issued in Finland.

#### **Article 67 b**

If the purchaser of services which consist of valuations of or work on movable property and which are performed within the territory of the Community uses for the purchase a value added tax identification number which has been issued in some Member State, the service has been sold in Finland if the number in question has been issued in Finland. However, this provision applies only if the property is transported out of the Member State where the service is performed.

#### *Intangible services*

#### **Article 68**

Services referred to in paragraph 2 of the present Article have been sold in Finland if the purchaser has a fixed establishment here, to which the services are supplied. If the services are not supplied to a fixed establishment in Finland or abroad, they have been sold in Finland if the purchaser has his domicile here. If the purchaser has his domicile in Finland or in another Member State, the present Article is only applicable if the purchaser is an entrepreneur.

The services referred to in paragraph 1 above are:

- 1) the transfer of copyright, patents, licences, trademark and other similar rights,
- 2) advertising and publicity services,
- 3) consultancy, product development, planning, bookkeeping, accounting, writing, drawing and translation services, legal services and other similar services,
- 4) automatic data processing services as well as services consisting of planning and programming of automatic data processing programs and systems,
- 5) the supply of information,
- 6) notary, recovery and other similar services relating to financial activity,
- 7) the hiring out of manpower,
- 8) the hiring out of movable property, with the exception of transport equipment,
- 9) the obligation to refrain, in whole or in part, from exercising a right referred to in section 1), or from conducting a certain business,
- 10) the brokerage of services referred to in this Article.

#### *Radio and television broadcasting services, electronic services and telecommunications services*

#### **Article 68 a**

The provisions of Article 68 apply also to radio and television broadcasting services, electronic services and telecommunications services.

However, the services referred to in paragraph 1 have been sold in Finland also when:

- 1) the fixed establishment from which the services are supplied, or if the services are not supplied from a fixed establishment, the seller's domicile is outside the Community,
- 2) the purchaser is a person other than an entrepreneur, and

3) the services are supplied to the purchaser's permanent establishment in Finland, or if the services are not supplied to a permanent establishment, when the purchaser's domicile is in Finland.

Electronic services mean the following services performed electronically:

- 1) website supply, web-hosting and distance maintenance of programmes and equipment,
- 2) supply of software and updating thereof,
- 3) supply of images, text and information, and making databases available,
- 4) delivery of music, films and games, as well as gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events,
- 5) performance of distance teaching,
- 6) services similar to the services mentioned in sections 1) – 5).

The fact that the seller and the purchaser of the services communicate via electronic mail does not itself mean that the services are considered as electronic services.

Telecommunications services mean services the purpose of which is the transmission, emission or reception of signals, writing, images and sounds or information by wire, radio, optical or other electromagnetic systems, as well as the transfer assignment or the transfer of the right to use capacity for such transmission, emission or reception.

### **Brokerage services**

#### **Article 69**

Brokerage services other than those referred to in Article 66, paragraph 2, Article 66 a, paragraph 3, Article 67 a, paragraph 2, and Article 68, paragraph 2, section 10) have been sold in Finland if the goods or services subject to the brokerage have been sold in Finland, unless otherwise provided for in paragraph 2.

If the purchaser of brokerage services referred to in paragraph 1 has used for the purchase a value added tax identification number which has been issued in some Member State, the brokerage services have been sold in Finland if the number in question has been issued in Finland.

### **Chapter 6**

#### **Article 70**

#### **Exemptions related to international trade**

Tax is not payable on the following sales:

- 1) sales of goods, when the seller, or someone else under his mandate, transports the goods to a destination outside the Community,
- 2) sales of goods, when an independent transport enterprise transports the goods under the purchaser's mandate directly to a destination outside the Community,
- 3) sales of goods to a foreign entrepreneur who is not a person liable to tax in Finland and who collects the goods in Finland in order to transport them directly to a destination outside the Community, without using them here,
- 4) sales of goods to a foreign purchaser who is not a person liable to tax in Finland, if the goods are delivered under his mandate and at his expense to an entrepreneur for performance of work and for onward delivery to a destination outside the Community,
- 5) supplies of goods by virtue of a guarantee or other corresponding commitment to a foreign entrepreneur who has made the commitment and who is not a person liable to tax in Finland,
- 6) sales of aircraft, their spare parts or equipment for use by an entrepreneur, which operates for reward mainly on international routes,

7) sales of goods for the provisioning of vessels or aircraft in commercial international traffic, or for sale on board such vessels and aircraft as well as the sales on board such vessels and aircraft to passengers travelling to a foreign country, unless otherwise provided for in paragraph 2.

Tax is payable on sales of goods to passengers on vessels or aircraft, to be taken away in their luggage, if the sales take place during the passenger transport referred to in Article 63 c.

(Article 70 a has been repealed)

#### **Article 70 b**

Tax is not payable on sales of goods to travellers, whose domicile is not in the Community, nor in Norway, to be taken away in their luggage, if it is established, by means to be defined by administrative decree, that the travellers have exported the goods in an unused state to a destination outside the Community within three months following the month in which the sales were effected and if the consideration charged from the traveller is not less than EUR 40.

Tax is not payable on sales of goods, or of groups of goods constituting a normal entity, to a person whose domicile is in Norway and who has exported the goods as luggage to Norway immediately in connection with the sale and who has paid value added tax there in connection with the importation. An additional precondition is that the selling price, excluding tax, of the goods, or of the group of goods, is not less than EUR 170.

Tax is not payable on sales of goods, to be taken away in luggage, to a traveller travelling to a destination outside the Community from a customs warehouse referred to in Article 99 of the Customs Code, or from a warehouse referred to in Article 72 j of the present Act, situated in an airport. However, only alcoholic drinks, tobacco products, chocolate and confectionery, perfumes, cosmetic preparations and toilet articles can be sold exempt to a traveller, whose domicile is in Norway.

#### *Sales of services*

#### **Article 71**

Tax is not payable on the following sales:

- 1) the sale of transport services and loading, unloading as well as other such services, directly ancillary to the transport, in respect of goods to be transported to a destination outside the Community, or subject to an external transit procedure, or in respect of imported goods subject to an internal transit procedure,
- 2) the sale of transport, loading and unloading services and other services related to the importation of goods, if the value of the services is to be included in the taxable amount of the imported goods according to the provisions of Article 91.
- 3) the supply of services to satisfy the direct needs of vessels or aircraft in commercial international traffic, or of their cargo, as well as sales of services on board such vessels and aircraft to passengers travelling to a foreign country,
- 4) the hiring out of aircraft, their spare parts or equipment, or the sale of work on them, or the chartering of aircraft to an entrepreneur, who operates for reward mainly on international routes,
- 5) the sale of work on goods, if the seller, a foreign entrepreneur acting as a purchaser, who is not liable to tax in Finland, or someone else under their mandate, exports the goods directly to a destination outside the Community, without using them here,
- 6) the sale of repair services in respect of goods on the basis of a guarantee or another corresponding commitment, to a foreign entrepreneur, who has made the commitment and is not liable to tax in Finland,

(Section 7) has been repealed).

- 8) the sale of transport services in respect of international postal traffic and services ancillary to them to an enterprise or a corporation conducting postal traffic abroad,

9) the sale of travel agency services referred to in Article 80 below, in so far as the goods and services supplied by other entrepreneurs outside the Community for the direct benefit of the travellers are involved,

10) the sale of the intra-Community transport referred to in Article 66 a, which concern the transport of goods to the Azores or to Madeira, or from those areas, or between them,

11) the brokerage of goods and services, which are sold exempt by virtue of Article 58, Article 59, paragraph 4, Articles 70, 70 b, 71 or 72 d.

## **Article 72**

The purchaser is not liable to pay tax in respect of services referred to in Article 68, other than hiring-out services, in so far as he has paid tax on importation of the goods related to those services.

### *Intra-Community sales of goods*

#### **Article 72 a**

Tax is not payable on intra-Community sales of goods, referred to in Article 72 b.

#### **Article 72 b**

Intra-Community sales mean the sale of movable property, if the seller, the purchaser, or someone else on their behalf, transports the property to the purchaser from Finland to another Member State. The property may, prior to transport to another Member State, be delivered to an entrepreneur for the performance of work.

Sales of goods are considered to constitute intra-Community sales only if the purchaser is an entrepreneur acting in a Member State other than Finland, or a legal person other than an entrepreneur.

However, intra-Community sales are not involved when the purchaser is a person referred to in Article 63 b, paragraph 2, sections 1) - 3):

1) whose acquisitions do not exceed the threshold for the taxable intra-Community acquisitions applied in the relevant Member State, and when the person has not applied for registration as a person liable to tax in respect of his acquisitions, or

2) whose acquisition does not constitute an intra-Community acquisition in the relevant Member State by virtue of the provisions corresponding to the provisions of Article 26 c, paragraph 3.

Sales of new means of transport are considered to constitute intra-Community sales also in the cases referred to in paragraph 3 or when the purchaser is a private person.

Sales of goods are not considered to constitute intra-Community sales if the procedure referred to in Article 79 a has been applied in respect of those sales.

The transfer of goods referred to in Article 18 a is also considered to constitute an intra-Community sale.

#### **Article 72 c**

Sales of goods subject to excise duty are considered to constitute intra-Community sales also in the cases referred to in Article 72 b, paragraph 3, if the procedures provided for in the excise duty legislation of the Member State of arrival of the transport are applied to the transfer of goods.

*Certain other sales***Article 72 d**

Tax is not payable on sales of goods and services to embassies and other missions of a similar status, to the offices of career consuls, or to their staff, situated in other Member States, subject to corresponding preconditions under which the exemption or refund is given in the host State.

Nor is tax is payable on sales of goods and services to international organizations and their staff situated in other Member States, subject to the preconditions and restrictions established in the treaties establishing those organizations, or in their headquarters agreements. A precondition for the exemption is that the host State has recognized the organization as an international organization.

Tax is not payable on sales of goods and services to the institutions of the European Communities and their staff situated in other Member States, subject to corresponding preconditions under which the exemption is given in the host State.

Tax is not payable on sales of goods and services for the use of military forces situated in other Member States and participating in common defence efforts of States belonging to the North Atlantic Treaty Organization, or for the use of the civilian staff of those military forces, or for supplying their messes or canteens, subject to corresponding preconditions under which the exemption is given in the State of destination. The exemption does not apply in respect of the military forces of the State of destination.

The means for demonstrating the preconditions for the exemption are defined by administrative decree.

**Article 72 e**

Tax is not payable on sales of motor vehicles, if the purchaser is entitled to import a corresponding vehicle exempt by virtue of Article 94, paragraph 1, section 20) or to the refund referred to in Article 129, paragraph 1. The means for demonstrating the preconditions for the exemption are defined by administrative decree.

If the purchaser of the vehicle referred to in paragraph 1 sells, hires out, provides for use without consideration or otherwise puts the vehicle at the disposal of a person other than someone entitled to corresponding exempt acquisitions, before three years have passed from the registration of the vehicle for the use in question, he shall pay the tax from which the seller is exempt by virtue of paragraph 1. If the purchaser, when moving out of Finland, before the expiry of the mentioned time limit, sells a vehicle used by him here, he shall pay tax 1/36 in respect of every outstanding full or incomplete month of the time limit.

The provisions of paragraph 2 also apply to motor vehicles acquired for uses referred to in paragraph 1, the importation or intra-Community acquisition of which has been exempted. In this case the payable tax is determined on the basis of the tax from which the purchaser has been exempt in connection of the importation or intra-Community acquisition.

The provisions concerning the car tax apply to the payment, the tax authorities, the declaration obligation, the imposition of tax, the advance rulings, the appeals and the recovery of tax in respect of the tax referred to in the paragraphs 2 and 3.

*Intra-Community acquisition of goods*

**Article 72 f**

Tax is not payable on intra-Community acquisitions of goods, if:

- 1) tax would not be payable on importation of goods,
- 2) tax would not be payable on sales of goods by virtue of Article 61 or Article 72 h, paragraph 1, sections 1) or 2) if the sale took place in Finland,
- 3) the acquirer would, by virtue of Article 122, be entitled to a full refund of the tax payable on the acquisition and he has fulfilled his declaration obligation according to Article 162.

**Article 72 g**

Tax is not payable on intra-Community acquisitions taking place in Finland in accordance with Article 63 d, if:

- 1) the purchaser is a foreign entrepreneur, who does not have a fixed establishment in Finland,
- 2) for the acquisition the purchaser uses a value added tax identification number which has been issued in another Member State,
- 3) the purchaser purchases the goods for the purpose of resale taking place in Finland,
- 4) the subsequent purchaser is an entrepreneur or a legal person other than an entrepreneur, who is entered in the register of persons liable to value added tax in Finland,
- 5) linked to the intra-Community acquisition the goods are transported directly from a Member State other than the State in which the purchaser is registered to a subsequent purchaser in Finland, and
- 6) the subsequent purchaser is liable to pay tax on the resale by virtue of Article 2 a.

*Exemptions related to warehousing arrangements, free zones and free warehouses***Article 72 h**

Tax is not payable on:

- 1) sales of goods, which are placed under the warehousing arrangements referred to in Articles 50 or 98 of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (the Customs Code), or which are transferred to a free zone or in a free warehouse referred to in Article 166 of the Customs Code,
- 2) importation and sales of goods referred to in Article 72 i above, which are transferred to the tax warehousing arrangements referred to in Article 72 j,
- 3) sales of goods subject to the warehousing arrangements, or situated in a free zone or a free warehouse referred to in section 1),
- 4) sales of goods referred to in Article 72 i, which are subject to the tax warehousing arrangements referred to in Article 72 j,
- 5) sales of services performed in the warehouses referred to in Article 51 or 99 of the Customs Code, in a free zone or a free warehouse or in tax-free warehouses referred to in Article 72 j, if the object of the services are goods referred to in sections 3) or 4) above.

If the removal of the goods in question from a free warehouse or a free zone to a destination elsewhere in the Community would not constitute an importation of goods, a precondition for the exemption referred to in paragraph 1, sections 1) and 3) is that the goods are placed under the export procedure referred to in Article 161 of the Customs Code.

A precondition for the exemption referred to in paragraph 1, sections 3) and 4) is that the goods, in connection with the sales, are not removed from the arrangement, the free zone or the free warehouse referred to in the present article. However, this provision is not applicable if the removal of the goods constitutes an importation.

Tax is not payable on the intra-Community acquisition of goods, if the sale of goods would not be subject to tax by virtue of paragraph 1, sections 1) or 2), if the sale took place in Finland.

**Article 72 i**

The following goods, referred to in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (the Combined Nomenclature), constitute goods referred to in Article 72 h, paragraph 1, sections 2) and 4) above:

- 1) tin, CN Code 8001,
- 2) copper, CN Codes 7402, 7403, 7405, 7408,
- 3) zinc, CN Code 7901,
- 4) nickel, CN Code 7502,
- 5) aluminium, CN Code 7601,
- 6) lead, CN Code 7801,
- 7) indium, CN Codes ex 8112 91, ex 8112 99,
- 8) cereals, CN Codes 1001 to 1005, 1006 (unprocessed rice only) and 1007 to 1008,
- 9) oil seeds and oleaginous fruit, CN Codes 1201 to 1207, coconuts, Brazil nuts and cashew nuts, CN Code 0801, other nuts, CN Code 0802 and olives, CN Code 0711 20,
- 10) grains and seeds (including soya beans), CN Code 1201 to 1207,
- 11) coffee, not roasted, CN Codes 0901 11 00 and 0901 12 00,
- 12) tea, CN Code 0902,
- 13) cocoa beans, whole or broken, raw or roasted, CN Code 1801,
- 14) raw sugar, CN Codes 1701 11 and 1701 12,
- 15) rubber in primary forms in plates, sheets or strip, CN Codes 4001 and 4002,
- 16) wool, CN Code 5101,
- 17) chemicals in bulk, CN Chapters 28 and 29,
- 18) mineral oils (including propane and butane; also including crude petroleum oils), CN Codes 2709, 2710, 2711 12 and 2711 13,
- 19) silver, CN Code 7106,
- 20) platinum (palladium, rhodium), CN Codes 7110 11 00, 7110 21 00 and 7110 31 00,
- 21) potatoes, CN Code 0701,
- 22) vegetable oils and fats and their fractions, whether or not refined, but not chemically modified, CN Codes 1507 – 1515,
- 23) cellulose, CN Codes 4701 to 4706.

The provisions of paragraph 1 also apply in respect of other goods, if the goods are intended for an entrepreneur for the purposes of sales referred to in Article 70, paragraph 1, section 7) and paragraph 2, or Article 70 b, paragraph 3, or of sales of goods, to be taken away in luggage, in a place referred to in Article 70 b, paragraph 3 to travellers travelling to another Member State.

**Article 72 j**

Goods subject to tax warehousing arrangements mean goods, which are situated in a tax-free warehouse kept by virtue of an authorization referred to in Article 72 k, and which are not subject to the warehousing arrangements referred to in Article 50 or in Article 98 of the Customs Code. However, the goods are not considered to be subject to tax warehousing arrangements if they are intended to be sold at the retail sale stage, with the exception of goods referred to in Article 72 i, paragraph 2, or if they are used in the warehouse.

Goods subject to excise duty are considered to be subject to tax warehousing arrangements when they are situated in a warehouse referred to in Article 7, paragraph 2 of the Excise Duty Application Act.

Goods are subject to tax warehousing arrangements also when they are transferred within the territory of Finland from a tax-free warehouse, or from a warehouse referred to in paragraph 2, to another warehouse.

**Article 72 k**

A Regional Tax Office grants authorization to keep a tax-free warehouse on application. The preconditions applied in respect of keeping of the tax warehouse are laid down in the authorization. A Regional Tax Office may require a guarantee to be provided in respect of payment of taxes.

An entrepreneur, who is deemed appropriate in respect of his economic situation and other conditions, may be authorized as a warehouse keeper.

An authorization as a warehouse keeper may be repealed if the preconditions for the authorization have ceased to exist, or if the conditions laid down in the authorization have not been respected.

The National Board of Taxes issues more detailed provisions concerning the preconditions for the keeping of tax warehouses.

**Article 72 l**

Tax is payable on the removal of goods from the arrangements referred to in Article 72 h, from a free zone or from a free warehouse.

However, tax is not payable if:

- 1) the goods have not been imported, nor been bought as an intra-Community acquisition and the goods and services in respect of them have not been sold exempt by virtue of Article 72 h,
- 2) the removal constitutes an importation,
- 3) the removal of the goods is linked to their sale, or
- 4) the goods are transferred to a destination outside the Community.

**Article 72 m**

The person who causes the arrangements referred to in Article 72 h to cease or the goods to be removed from a free zone or from a free warehouse is liable to pay tax on the removal of goods referred to in Article 72 l.

The liability to pay tax arises when the goods are removed from the arrangements referred to in Article 72 h, from a free zone or from a free warehouse.

The keeper of a tax-free warehouse, or of a warehouse referred to in Article 72 j, paragraph 2, is also responsible for the tax payable on removal of goods from tax warehousing arrangements.

**Article 72 n**

The taxable amount of the removal of goods referred to in Article 72 l, includes the following items, unless the goods have been sold exempt by virtue of Article 72 h, paragraph 1, sections 3) or 4):

- 1) the value of the taxable amount for sales, importation or intra-Community acquisitions of goods, which are exempted by virtue of Article 72 h, paragraph 1, sections 1) or 2), and
- 2) the value of the taxable amount for sales of services, which are exempted by virtue of Article 72 h, paragraph 1, section 5).

If the goods have been sold exempt by virtue of Article 72 h, paragraph 1, sections 3) or 4), the taxable amount includes:

- 1) the value of the taxable amount of the last such sale of the goods, and
- 2) the value of the taxable amount of such sales of services, which are exempted by virtue of Article 72 h, paragraph 1, section 5) and which have been performed after the sale of goods referred to in section 1).

## **Chapter 7**

### **Taxable amount**

#### *General provisions*

#### **Article 73**

The taxable amount for sales is the consideration, excluding tax. The consideration means the price based on an agreement between the seller and the purchaser, inclusive of all surcharges.

The provisions concerning the taxable amount for the importation of goods are included in Chapter 9.

The provisions concerning the taxable amount for the removal of goods from warehousing arrangements are included in Article 72 n.

#### **Article 73 a**

The taxable amount for an intra-Community acquisition of goods is the consideration excluding tax.

The taxable amount for the intra-Community acquisitions referred to in Article 26 a, paragraph 2, sections 1) and 2) is the value referred to in Article 74.

#### **Article 73 b**

The excise duty payable by an intra-Community acquirer for goods subject to excise duty is included in the taxable amount.

The excise duty, which has been paid in the country of departure of the transport of goods and which has been refunded to the intra-Community acquirer of goods, may be deducted from the taxable amount.

#### *Private use*

#### **Article 74**

When goods are taken into private use the taxable amount is:

- 1) the purchase price, or a probable lower price of supply, of the purchased goods,
- 2) the taxable amount referred to in Chapter 9, or a probable lower price of supply, of the self-imported goods,
- 3) the direct and indirect manufacturing costs of the self-manufactured goods.

#### **Article 75**

When services are taken into private use the taxable amount is:

- 1) the purchase price, or a probable lower price of supply, of the purchased services,
- 2) the direct and indirect costs of the self-performed services.

#### **Article 76**

When building services are taken into private use, within the meaning of Article 33, the taxable amount is:

- 1) the value which constituted the taxable amount in respect of the tax deducted from the purchased building services or immovable property,
- 2) the direct and indirect costs of the self-performed building services.

#### **Article 77**

The taxable amount referred to in Articles 74 – 76 above does not include the tax.

#### *Adjustment entries*

#### **Article 78**

The following items may be deducted from the taxable amount:

- 1) annual and turnover discounts, purchase and sales rebates, surplus refunds and other such adjustment entries which have been granted to the purchaser in respect of taxable sales,
- 2) credit losses in respect of sales which have been declared as taxable,
- 3) compensation for returnable packages and transport appliances.

A subsequently accrued amount, which has been deducted in accordance with paragraph 1, section 2) above from the credit loss shall be added to the taxable amount.

The amount referred to in paragraphs 1 and 2 does not include the tax.

#### **Article 78 a**

Annual and turnover discounts, purchase and sales rebates, surplus refunds, other such adjustment entries and compensation for returnable packages and transport appliances, which have been granted by the seller in respect of taxable intra-Community acquisitions of goods, may be deducted from the taxable amount.

#### *Subsidies and aids*

#### **Article 79**

The taxable amount includes subsidies and aids directly linked to the price of the goods or services.

When the goods or services are sold by a municipality or by the Helsinki Metropolitan Area Council, the deficit resulting from the conduct or the organization of the activity, which the municipality or partner municipalities have met, is not regarded as subsidies and aids directly linked to the price.

The taxable amount includes the compensation based on television licence fees, which is received by the Finnish Broadcasting Company Ltd from the State Television and Radio Fund and the compensation, which is received by the Åland Island's Radio and TV Company Ltd from the television licence fee revenues levied by the Autonomous Regional Government of the Åland Islands.

The amount referred to in paragraphs 1 and 3 does not include the tax.

*Second hand goods, works of art, collectors' items and antiques.*

**Article 79 a**

When a dealer liable to tax sells second hand goods, works of art, collectors' items or antiques, which he has acquired for the purpose of taxable resale, the profit margin, excluding tax, may be considered to be the taxable amount.

Goods are considered to have been acquired for the purpose of resale also when they have been sold in parts.

A dealer liable to tax means a person liable to tax who in the conduct of business purchases or imports second hand goods, works of art, collectors' items or antiques for the purpose of resale.

**Article 79 b**

Second hand goods mean movable property, which has been in use and which is suitable for further use as it is, or after repair, restoration or disassembly. However, works of art, collectors' items or antiques are not considered as second hand goods.

**Article 79 c**

Works of art are the following goods classified in the Combined Nomenclature:

- 1) pictures, original engravings and other objects belonging to CN Codes 9701 or 9702 00 00,
- 2) sculptures belonging to CN Code 9703 00 00, and sculpture casts of them produced subject to the supervision by the artist or his successors in title provided that the production is limited to eight copies,
- 3) tapestries belonging to CN Code 5805 00 00 and wall textiles belonging to CN Code 6304 00 00, provided that they are made by hand from original designs provided by the artist, and that there are not more than eight copies of each,
- 4) photographs taken by the artist and printed by him or under his supervision, signed and numbered provided that their number is limited to 30 copies, irrespective of the size and the mount.

**Article 79 d**

Collectors' items are the following goods classified in the Combined Nomenclature:

- 1) postage or revenue stamps, postmark, first-day covers, pre-stamped stationery and the like, provided that they are not legal tender and not intended to become legal tender (CN Code 9704 00 00), or that their price is determined by their value as collectors' items, and
- 2) collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical archaeological, palaeontological, ethnographic or numismatic interest.

**Article 79 e**

Antiques mean goods, which are more than one hundred years old and which are not works of art or collectors' items.

**Article 79 f**

The procedure referred to in Article 79 a above is applied only in respect of sales of such goods, which a dealer liable to tax has bought in Finland or in the Community from:

- 1) a person other than an entrepreneur,
- 2) an entrepreneur, whose sales are exempted by virtue of Articles 61, 223 or by virtue of corresponding provisions, or by virtue of corresponding provisions in another Member State,

(Section 3) has been repealed)

4) an entrepreneur, who applies the procedure referred to in Article 79 a, or a corresponding procedure in another Member State, in respect of his sales, provided that a note to that effect is made on the sales receipt, or

5) a person who transfers his business enterprise within the meaning of Article 62, if the transferor has bought the goods from a seller referred to in sections 1), 2) or 4), or if the transferor has not made the deduction referred to in Chapter 10 in respect of works of art, collectors' items or antiques imported by himself or in respect of works of art referred to in Article 79 g bought by himself.

#### **Article 79 g**

A dealer liable to tax is entitled to apply the procedure referred to in Article 79 a also in respect of works of art, collectors' items and antiques imported by himself or in respect of such works of art, bought by himself, the sales and intra-Community acquisitions of which have been subject to the reduced rate in accordance with Article 85 a, paragraph 1, section 8).

#### **Article 79 h**

If the dealer liable to tax has made a note on the sales receipt concerning the tax payable on the sale, the general provisions of the present Act are applied in respect of the sale, notwithstanding the provisions of Articles 79 a or 79 g.

#### **Article 79 i**

The provisions of Article 79 a are not applicable to the sales of new means of transport referred to in Article 26 d, when the means of transport is transported to another Member State within the meaning of Article 72 b, paragraph 1.

#### **Article 79 j**

The profit margin referred to in Article 79 a above is the difference between the consideration obtained for the sale of goods and the purchase price of goods, unless otherwise provided for in Article 79 k.

The purchase price referred to in paragraph 1 in respect of works of art, collectors' items or antiques imported by the dealer liable to tax himself is considered to mean the taxable amount referred to in Chapter 9, increased by the amount of the tax. The purchase price referred to in paragraph 1 in respect of the intra-Community acquisitions of works of art referred to in Article 79 g, which are made by the dealer liable to tax himself, is considered to mean the taxable amount referred to in Article 73 a, increased by the amount of the tax.

If the purchase price of the goods exceeds the consideration obtained for their sale, the difference can not be deducted from the considerations obtained for the sales of other goods.

#### **Article 79 k**

A dealer liable to tax may use as profit margin the profit margin during the tax period referred to in Article 162.

The profit margin of a tax period is the difference between the total amount of considerations obtained for goods sold during the tax period and subject to the procedure referred to in Article 79 a, and the

total amount of the purchase prices for goods acquired during that tax period and subject to the aforementioned procedure.

If the total amount of the purchase prices according to paragraph 2 exceeds the total amount of considerations obtained for the goods sold, the difference may be added, during the following tax period, to the total amount of purchase prices for goods, which are subject to the procedure provided for in the present Article.

If goods, whose purchase price has been deducted in the calculation of the profit margin for a tax period, as provided for in paragraph 2, are taken for purposes other than taxable resales, or if the provisions of Article 79 j are applied in respect of the sales of goods, or if a note concerning the tax has been made on the sales receipt according to Article 79 h, the deducted amount shall be added to the profit margin for the tax period.

#### *Travel agency services*

##### **Article 80**

When a tour operator, in his own name, sells goods and services, which he has bought from other entrepreneurs for the direct benefit of travellers, the tour operator is deemed to sell one single service (travel agency service).

The tour operator is entitled to deduct from the taxable amount of the sale of travel agency services 82 per cent of the purchase prices for goods and services, which he has acquired from other entrepreneurs for the direct benefit of travellers. The purchase price includes the amount of the tax.

If goods or services, for which a deduction has been made according to paragraph 2, have been taken for purposes other than sales as travel agency services, the deducted amount shall be added to the taxable amount.

#### *Special provisions*

##### **Article 80 a**

Amounts in foreign currencies are converted into euro by applying the latest sales rate published by a commercial bank at the time referred to in Article 15 or Article 16. However, the time of the invoice or the time when the payment has accrued is the decisive time, if the tax is assigned to the month of invoicing or to the month when the payment has accrued, by virtue of the provisions of Chapter 13.

The decisive time in respect of intra-Community sales or acquisitions is the 15<sup>th</sup> day of the calendar month after the time when the liability to pay tax arises. However, if the purchaser of the goods has received an invoice or a corresponding document for the delivered goods at an earlier time, the time of invoicing is decisive.

##### **Article 81**

When goods or services, which are in use, which partially entitles to deduction, are sold the taxable amount is that part of the amount referred to in Article 73, which corresponds to the part, which entitles to deduction, of the whole purpose of use of the goods or services.

##### **Article 82**

When goods or services are partially taken into private use the taxable amount is that part of the amount referred to in Articles 74 – 77, which corresponds to the part of the private use of the whole purpose of use of the goods or services.

(Article 83 has been repealed)

## **Chapter 8**

### **Tax rate**

#### **Article 84**

The tax to be paid is 22 per cent of the taxable amount, unless otherwise provided for in Articles 85 – 85 a.

#### **Article 85**

The tax rate is 17 per cent of the taxable amount in respect of the sales, intra-Community acquisitions, removals from warehousing arrangements and importation of the following goods:

- 1) food, beverages and other substances intended for internal human consumption in the unaltered state, as well as the raw materials and spices, food preservatives, food colours and other food additives used in their production and preservation (*foodstuffs*),
- 2) animal feeding stuffs and their mixtures, as well as raw materials and additives used in their production, industrial waste and fish used for feeding animals (*animal feeding stuffs*).

The reduced tax rate provided for in the paragraph 1, section 1) is not applicable to:

- 1) the service of food and beverages,
- 2) live animals,
- 3) tap water,
- 4) alcoholic beverages referred to in the Act on Excise Duty on Alcohol and Alcoholic Beverages, nor tobacco products, nor
- 5) the goods and the poisons referred to in Article 85 a, paragraph 1, section 6).

#### **Article 85 a**

The tax to be paid is 8 per cent of the taxable amount in respect of the sale of the following services and in respect of the sales, intra-Community acquisitions, removals from warehousing arrangements and importation of the following goods:

- 1) passenger transport,
- 2) the transfer of the right to use premises for accommodation or harbour facilities,
- 3) services, which create opportunities for physical exercise,
- 4) entry fees to theatres, circuses, musical and dancing performances, cinemas, exhibitions, sports events, zoos, museums and other corresponding cultural and recreational events and institutions,
- 5) the compensations based on TV-licence fees, which are received by the Finnish Broadcasting Company Ltd from the State Television and Radio Fund, and the compensations, which are received by the Åland Island's Radio and TV Company Ltd from television licence fee revenues levied by the Autonomous Regional Government of the Åland Islands,
- 6) pharmaceuticals referred to in the Pharmaceuticals' Act (395/1987), products referred to in Article 21, paragraph 2 and in Article 21 a of that Act, which may be sold only by pharmacies, as provided in the preconditions related to the permission or registration referred to in those Articles, clinical foodstuffs and corresponding products and basic ointments, in cases where the price is subsidized by virtue of the Sickness Insurance Act (364/1963),
- 7) books,

8) works of art referred to in Article 79 c §, however, in cases other than the importation only when, the seller is the artist or his successors or occasionally an entrepreneur other than the dealer liable to tax referred to in Article 79 a, paragraph 3.

Entry fees referred to in paragraph 1, section 4) also include fees, similar in nature to entry fees, levied for the use of vehicles and other similar appliances in amusement parks.

Books referred to in paragraph 1, section 7) do not include:

- 1) publications produced otherwise than by printing or by comparable means,
- 2) periodicals, nor
- 3) publications mainly containing advertising material.

### **Article 85 b**

By way of derogation from the provisions of Article 85 and 85 a, the tax to be paid for returnable packages and transport appliances, which entitle to compensation upon return, is 22 per cent of the taxable amount.

## **Chapter 9**

### **Importation of goods**

#### *Liability to pay tax*

### **Article 86**

Importation of goods means the entry of goods into the Community. However, the entry of goods, which have been placed under the internal transit procedure according to Articles 163 – 165 of the Customs Code in cases other than those referred to in Article 86 a, paragraph 4 of the present Act is not considered to constitute importation.

### **Article 86 a**

The importation of goods takes place in Finland if the goods are in Finland when they are entered into the Community, unless otherwise provided for in paragraph 2.

If one of the forms of customs approved treatment or use or of customs procedure referred to in paragraph 3, has been applied to the goods on entry into the customs territory of the Community, the importation of goods takes place in Finland when the goods are in Finland when the arrangements in question cease.

The arrangements referred to in paragraph 2 are the following:

- 1) temporary storage referred to in Articles 50 – 53 of the Customs Code,
- 2) the transfer of the goods to a free warehouse or a free zone referred to in Article 166 of the Customs Code,
- 3) the customs warehousing arrangements referred to in Articles 98 – 113 of the Customs Code, or inward processing in the form of a system of suspension referred to in Article 114 of the Customs Code,
- 4) the temporary importation procedure with total relief from customs duties referred to in Articles 137 – 144 of the Customs Code, and
- 5) the external transit procedure referred to in Articles 91 – 97 of the Customs Code.

The provisions of paragraph 2 also apply to goods entered from a place within the customs territory of the Community, but outside the tax territory of the Community, which have been placed under the

internal transit procedure referred to in Articles 163 – 165 of the Customs Code, or under one of the procedures referred to in paragraph 3, sections 1) – 4).

#### **Article 86 b**

The declarant referred to in Article 4, point 18) of the Customs Code is liable to pay tax on importation. This provision is also applied in respect of the person who is in the position of declarant in the case of importation from the customs territory of the Community to its tax territory.

In addition to the provisions of paragraph 1, the person liable to pay the customs debt according to Articles 201 – 208 and 212 – 216 of the Customs Code is also responsible for the payment of the tax.

The purchaser is liable to pay tax for goods sold in customs auctions.

#### **Article 87**

The provisions of Articles 201 – 208 and 212 – 216 of the Customs Code concerning the time when the customs debt is incurred apply in respect of the time at which the liability to pay tax arises.

#### *The taxable amount*

#### **Article 88**

The taxable amount for the importation of goods is the customs value defined in Articles 28 – 36 of the Customs Code and in Articles 141 – 181 of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Community Customs Code (Implementation Regulation), unless otherwise provided for in the present Act.

The taxable amount for goods sold at a customs auction is their auction price.

#### **Article 89**

The taxable amount for a data medium and an ADP standard program stored thereon is the total value of the data medium and the stored ADP program.

If the importer is a person other than an entrepreneur the taxable amount for a data medium and an ADP special program stored thereon is the total value of the data medium and the ADP special program.

#### **Article 90**

The taxable amount for goods, which have been outside the Community for repair, manufacture or other treatment, as well as for goods of the same type imported in place of goods exported for repair, is the amount of the costs for the repair, the treatment, or corresponding other costs and the costs of the dispatch as well as the value of parts incorporated in the goods outside the Community. However, this provision does not apply if the goods have been sold exempt outside the Community, or if such goods, which in Finland have been used for purposes, which entitle to deduction, have been sold outside the Community.

The provisions of paragraph 1 concerning the taxable amount for goods of the same type imported in place of goods exported to a destination outside the Community for repair also apply when defective goods have been exported to a destination outside the Community, they have been destroyed under

official supervision, or they have been handed over to the State without costs for the latter, before the customs duties for the goods imported in place of them have been entered in the accounts.

#### **Article 91**

The taxable amount includes the costs for transport, loading, unloading and insurance of the goods, as well as other costs related to the importation to the first place of destination in Finland specified in the transport contract.

If it is known, at the time when the liability to pay tax arises, that the goods will be transported to another destination situated within the territory of the Community, the costs up to that place of destination are included in the taxable amount.

(Article 92 has been repealed).

#### **Article 93**

The taxable amount includes taxes, customs duties, import charges and other charges, with the exception of value added tax, which are levied by the State or the Community due to importation of goods in connection with customs clearance. The taxable amount also includes taxes and other charges, which are to be paid outside Finland. This provision does not apply to goods sold at customs auctions.

#### **Article 93 a**

The taxable amount also includes the value of the taxable amount of such services in respect of imported goods, which have been sold exempt by virtue of Article 72 h, paragraph 1, section 5).

If the imported goods have been sold exempt by virtue of Article 72 h, paragraph 1, section 3) the taxable amount is the aggregate of the equivalent value of the taxable amount of the last sale of such goods and the equivalent value of the taxable amount of the services referred to in paragraph 1, which have been performed after that sale.

#### *Exemptions from the liability to pay tax on importation*

#### **Article 94**

Importation of the following goods is exempt:

- 1) mother's milk, human blood and human organs and tissues, (Sections 2), 3) and 4) have been repealed)
- 5) investment gold referred to in Article 43 b,
- 6) newspapers and periodicals referred to in Article 55,
- 7) editions of newspapers and periodicals referred to in Article 56,
- 8) gold imported by the Central Bank
- 9) vessels referred to in Article 58, paragraph 1 and aircraft, spare parts and equipment referred to in Article 70, paragraph 1, section 6),
- 10) bank notes and coins referred to in Article 59, section 1),
- 11) dental prostheses referred to in Article 36, section 3),
- 12) goods, which are duty-free by virtue of Articles 2 – 10, 11 – 15, 16 – 19, 25 – 26, 27 – 28, point B of annex II to Article 51, 61 – 63, 63 c, 64, 65 – 69, 79 – 85, 86, 87 – 89, 90, 91, 92 – 94, 95 – 99, 100 – 106, 107, 108, 111, 112 – 116, 117 and 118 of Council Regulation (EEC) No 918/83 setting up a Community system of reliefs from customs duty (Customs Duty Exemption Regulation),

13) ground equipment, safety devices and instruction materials used by a foreign airline company in international air traffic, spare parts and accessories for these goods, as well as related documents and forms,

14) goods, which are duty-free by virtue of Articles 29-31 of the Customs Duty Exemption Regulation, with the following further restrictions:

- not more than 500 grams of coffee or 200 grams of coffee extract or coffee essence,

- not more than 100 grams of tea or 40 grams of tea extract or tea essence,

15) goods, which are duty-free by virtue of Article 60 of the Customs Duty Exemption Regulation, on condition that the goods have been obtained free of charge and that they are intended to be used by public institutions pursuing education, teaching and scientific research, or by officially approved private institutions, which carry on the mentioned activity,

16) goods, which are duty-free by virtue of sections a) - q) of Article 109 of the Customs Duty Exemption Regulation, if the goods are imported free of charge to authorities, corporations or organizations,

17) goods, which are duty-free by virtue of Article 110 of the Customs Duty Exemption Regulation, if the consideration paid for them is included in the taxable amount for importation of the transported goods,

18) goods, which are duty-free by virtue of Articles 185 - 187 of the Customs Code, provided that the goods have not been sold exempt outside the Community, or that goods, which in Finland have been used for purposes, which entitle to deduction, have not been sold outside the Community,

19) goods, which are duty-free by virtue of Article 188 of the Customs Code, provided that the goods are not sold prior to importation,

20) goods, which are duty-free by virtue of Article 10 of the Customs Act (1466/94),

21) duty-free goods referred to in Article 9, paragraphs 1 – 3 of the Customs Act and goods referred to in paragraph 4 of that Article,

22) goods referred to in Article 129, paragraph 1, which are acquired for the official use of the European Communities, if the taxable amount for importation, increased by the amount of the value added tax, would be not less than EUR 80.

The provisions of paragraph 1 also apply to goods imported from a place within customs territory of the Community, but outside the tax territory of the Community, which would be duty-free if they were imported from a place outside the customs territory.

#### **Article 94 a**

The importation of a data medium and an ADP special program stored thereon is exempt, if the importer is an entrepreneur.

#### **Article 94 b**

The importation of goods is exempt, if the transport of the imported goods ends in another Member State and if the goods are exempt as an intra-Community sale and the importer is an entrepreneur.

#### **Article 95**

A traveller who arrives in Finland from a place outside the Community may import exempt personal luggage to a value of not more than EUR 175, however not more than 16 litres of beer referred to in the Act on Excise Duty on Alcohol and Alcoholic Beverages. This value does not include the products mentioned in paragraph 2, nor the personal goods, which a person returning to Finland re-imports, or which a traveller arriving here imports temporarily for his personal use or use by his family for the duration of the trip.

A traveller referred to in paragraph 1 may import in his personal luggage exempt products referred to in this paragraph in quantities not exceeding:

- 200 cigarettes, or 100 cigarillos, or 50 cigars, or 250 grams of smoking tobacco,
- 1 litre of distilled and strong alcoholic beverages, of an alcoholic strength exceeding 22 volume per cent, or 2 litres of distilled beverages and spirits, and aperitifs with a wine or alcoholic base, alcoholic beverages of an alcoholic strength not exceeding 22 volume per cent, as well as sparkling wines and liqueur wines,
- 2 litres of still wines,
- 50 grams of perfumes,
- 0,25 litres of toilet waters,
- 100 grams of tea or 40 grams of tea extracts and essences, and
- for travellers more than 15 years old 500 grams of coffee, or 200 grams of coffee extracts or essences.

A member of the crew of a vehicle in commercial traffic between Finland and a country outside the Community is entitled to import exempt the goods, which are duty-free by virtue of Article 12 of the Finnish Customs Act.

#### **Article 96**

The importation of goods is exempt if the exemption has been established in an agreement concluded with a foreign State and binding upon Finland upon the entry into force of the present Act.

(Articles 97 – 99 have been repealed)

#### *Special provisions*

#### **Article 100**

Value added tax is not refunded on the basis a decision concerning the refund or cancellation of customs duty by virtue of the Customs Code, or on the basis of a decision made in an appeals case, if it has been possible to deduct the tax paid on imported goods by virtue of Chapter 10, or if a tax refund has been granted by virtue of Articles 122, 130 or 131.

#### **Article 101**

The provisions concerning customs duty do not apply to value added taxation of the importation of goods, unless otherwise provided for in the present Act.

The provisions in customs legislation concerning customs duty apply in respect of the procedure applied to importation of goods, payment, refund and recovery of tax as well as other procedure, in respect of tax increases, administrative fines, reassessment of tax, and appeals, as well as in respect of professional secrecy, supply and reception of confidential information, unless otherwise provided for in the present Act.

The provisions of customs legislation concerning the formalities in respect of the goods to be imported to the customs territory of the Community and temporary storage, the transfer to a free warehouse or free zone, placing under a customs warehousing arrangements, inward processing in the form of a system of suspension or temporary importation procedure with total relief from customs duties also apply to goods to be imported from a place within the customs territory of the Community, but outside the tax territory of the Community, to the tax territory of the Community.

**Article 101 a**

If the conversion of currency is necessary in order to establish the taxable amount for importation of goods, the same exchange rate is applied as the one used for the determination of the customs value at the time referred to in Article 87 of the present Act.

**Chapter 10****Right to deduct***General right to deduct***Article 102**

A person liable to tax may deduct for the purposes of taxable business:

- 1) the tax payable on goods or services purchased from another person liable to tax, or the tax payable on a purchase by virtue of Article 8 a or Article 9,
- 2) the tax payable on goods imported by him,
- 3) the tax payable on intra-Community acquisitions made by him,
- 4) the value added tax paid on the car tax by virtue of the Car Tax Act,
- 5) the tax payable on the removal of goods from warehousing arrangements referred to in Article 72 I made by him.

Taxable business means an activity, which by virtue of the present Act results in the liability to tax for the seller of goods or services.

In the present Act tax included in the acquisition means the tax referred to in paragraph 1.

**Article 102 a**

A precondition for the right to deduct is that the person liable to tax holds a receipt for goods or services purchased from another person liable to tax, which indicates the tax payable on the sale.

A precondition for the right to deduct tax payable on imported goods is that the importer holds a customs clearance decision and the related documents.

**Article 102 b**

A precondition for the right to deduct the value added tax levied on the car tax is a debiting decision indicating the amount of the tax to be paid.

*Deductions for building services***Article 103**

In respect of an immovable property or building service, which a person liable to tax has purchased for the purposes of taxable business, he may deduct the tax payable by the seller for the building services performed in respect of the immovable property, by virtue of Article 31 or 31 a, if the immovable property has not been taken into use by the seller prior to the sale.

**Article 104**

In respect of an immovable property, which a person liable to tax has purchased for the purposes of taxable business, he may deduct the tax payable by the seller, by virtue of Article 33, due to the sale of the immovable property.

#### **Article 105**

A precondition for the right to deduct referred to in Articles 103 and 104 above is that the seller provides the purchaser with evidence of the amount of tax payable by the seller.

#### **Article 106**

If the holder of immovable property applies for registration as a person liable to tax, within the meaning of Article 30, he may make the deduction referred to in Articles 102 – 104, before his application, in respect of goods or services, which he has purchased for the purpose of the taxable supply of the immovable property, or he may deduct the tax payable on self-performed building services for the said purpose. A precondition is that the holder of immovable property has applied for registration as a person liable to tax within six months from taking the immovable property into use.

The right to deduct referred to in paragraph 1 applies only to the construction of new buildings and to the fundamental improvement of immovable property.

(Articles 107 – 110 have been repealed).

#### *Other special deductions*

#### **Article 111**

A person liable to tax may make the deduction referred to in Article 102 for purchased energy resources also when the charge is included in the exempt rent or other exempt consideration for the immovable property. However, only the amount corresponding to the tax payable on energy resources or fuels purchased by the owner, or the holder of the immovable property, may be deducted.

#### **Article 112**

When a person liable to tax takes goods, which were previously used for other purposes, into use, which entitles to deduction, he may deduct the tax included in the acquisition, or the tax he has paid on manufacturing for private use. If the probable price of the supply of the goods is lower than their original purchase price or a corresponding value, the tax corresponding to the reduction in value may not, however, be deducted.

When taxable business is started, the person liable to tax may make the deduction referred to in paragraph 1 in respect of goods in his possession, which he has acquired or manufactured subject to tax and which are used for purposes, which entitle to deduction.

(The third paragraph has been repealed).

The deduction referred to in paragraph 1 or 2 may not be made in respect of immovable property.

The provisions of paragraphs 1 and 2 concerning goods are also applicable to services, other than building services.

**Article 113**

The purchaser of a hiring-out service may deduct the tax payable on importation of the goods, which he has hired, if he is liable to pay tax on the hiring out of the goods by virtue of Article 9.

*Restrictions of the right to deduct***Article 114**

A deduction may not be made, when the acquisition concerns the following goods and services:

- 1) an immovable property, which the person liable to tax or his staff uses as a residence, a nursery or a recreational or leisure facility, as well as goods and services connected with it or its use,
- 2) goods and services related to the transport between the residence and place of work of the person liable to tax or his staff,
- 3) goods and services used for business entertainment purposes,
- 4) postage stamps or other comparable rights, if the sale of the transport service is not subject to tax on the basis that the service takes place abroad,
- 5) passenger cars, motorcycles, caravans, vessels, which by their structure are mainly intended for recreational or sports purposes, and aircraft with a maximum permissible take-off weight not exceeding 1,550 kilograms, as well as goods and services related to their use.

The restrictions of the right to deduct referred to in paragraph 1, section 5) do not apply to vehicles and vessels, which have been acquired for the purposes of sale or of hiring out, or for use for commercial passenger transport or for driving instruction, neither to passenger cars, which have been acquired exclusively for use, which entitle to deduction.

The provisions of paragraph 1, section 5) and paragraph 2 concerning passenger cars also apply to dual use cars.

**Article 114 a**

A tour operator may not make a deduction in respect of services and goods referred to in Article 80, paragraph 1, which he has acquired for the direct benefit of a traveller.

**Article 115**

The deduction referred to in Article 102 may not be made in respect of goods if the seller of the goods has applied the procedure referred to in Article 79 a to the sale.

A dealer liable to tax may not deduct the tax payable on works of art, collectors' items or antiques imported by himself, or works of art bought by himself, if he applies to the sales of goods the procedure referred to in Article 79 a.

**Article 116**

The State may not make deductions in respect of its acquisitions.

*Division of the right to deduct***Article 117**

In respect of goods or services, which the person liable to tax has acquired for or taken into use, which only partially entitles to deduction, the deduction may only be made for the part the goods or services are used for this purpose.

*Correction of deduction*

**Article 118**

If the purchaser is compensated for the amounts referred to in Article 78, paragraph 1, section 1) or 3), or Article 78 a, the deducted tax shall be corrected correspondingly.

(Chapter 11 has been repealed)

**Chapter 12**

**Refund of tax to persons other than the person liable to tax**

*Foreign entrepreneurs*

**Article 122**

A foreign entrepreneur who is not liable to tax for his sales and who does not have a fixed establishment in Finland is entitled to a refund of the tax included in the acquisition, if the acquisition of the goods or services relates to:

- 1) activity carried on by him abroad, which would have resulted in the liability to tax, or entitled to the refund referred to in Article 131, if the activity had been carried on in Finland, or
- 2) sales referred to in Articles 8 a or 9 made by him in Finland, for which the purchaser is liable to tax, or when the purchaser is the State.

The right to a refund applies only to tax, which could have been deducted by virtue of the provisions of Chapter 10, if the foreigner had been liable to tax in respect of his activity.

**Article 122 a**

A foreign entrepreneur referred to in Article 122 above is entitled to a refund of the tax included in the acquisition referred to in Article 131 a, if the acquisition of the goods or services relates to the foreigner's activity carried on abroad, which would have entitled to the refund referred to in Article 131 a, if the activity had been carried on in Finland.

**Article 123**

A foreign entrepreneur who purchases goods or services in his own name but on account of another is entitled to a refund only when the principal had had this right if he had acquired the goods or services himself.

(Article 124 has been repealed)

**Article 125**

The right to a refund arises when the goods have been delivered, services have been performed, or imported goods have been cleared by customs.

**Article 126**

If an application for a refund relates to the whole calendar year, or to the latter part thereof, the refund is not paid if the refundable amount is less than EUR 25. In other cases the refund is not paid if the refundable amount is less than EUR 200.

*Diplomatic acquisitions***Article 127**

The tax included in the acquisition of goods and services purchased for official use by embassies, other missions of a similar status and by the offices of career consuls of foreign powers acting in Finland may be refunded to them on application and on the basis of reciprocity.

The tax included in the acquisition of goods and services, which are purchased for the personal use of diplomatic representatives and career consuls of foreign powers acting in Finland, or of their family members living in their household, may be refunded to the representative or the career consul on application and on the basis of reciprocity.

A precondition for the refund is that the purchase price including tax of an individual good or service is not less than EUR 170.

**Article 128**

An application for a tax refund shall be made to the Ministry of Foreign Affairs in respect of each calendar quarter and not later than within one year from the date of payment of the invoice, which shall be attached to the application. The Ministry confirms whether the applicant is entitled to the refund on the basis of reciprocity, his status and the intended use of the goods or services. The Uusimaa Regional Tax Office examines the other preconditions for the refund and refunds the tax.

The National Board of Taxes establishes detailed provisions concerning the information to be included in the application and the documents to be attached to it.

If too much tax has been refunded the excess amount of tax may be deducted from the amounts to be refunded later.

Decisions made by virtue of this Article are not subject to appeal.

**Article 129**

The tax included in the acquisition of goods and services purchased in Finland for the official use of the institutions of the European Communities situated in Finland is refunded calendar yearly on application.

The tax included in the acquisition of goods or services purchased in Finland or of imported goods is refunded calendar yearly on application to the European Communities, when the acquisition or importation is based on a contract concerning a research or a co-operation contract between the European Communities and a public or private corporation situated in Finland. The tax is refunded to the extent that the European Communities finance the acquisition and the purchaser is not entitled to deduct the tax included in the acquisition by virtue of Chapter 10, or entitled to a refund by virtue of Articles 122 or 131.

A precondition for the refund is that the purchase price, including tax, of the goods or the services, or the taxable amount of the importation, increased by the amount of value added tax, is not less than EUR 80.

### *Municipalities*

#### **Article 130**

The municipalities are entitled to a refund of the tax included in the acquisition referred to in Chapter 10, which may not be deducted, or refunded by virtue of Article 131. The tax paid in respect of the subsidies or aids referred to in Article 79, paragraph 1 is also refunded.

The refund referred to in paragraph 1 above does not concern tax included in the acquisition for private consumption, for the uses referred to in Articles 114 or 114 a, nor for the purpose of leasing of immovable property.

(Paragraph 3 has been repealed)

The municipalities shall notify to the Regional Tax Office the total amount of tax refunds received in accordance with paragraph 1 for a calendar year, not later than the end of the second month following the calendar year, in so far as that information has not been submitted previously. The tax paid for a calendar year by virtue of Article 6, paragraph 2 may be deducted from the amount to be notified.

#### **Article 130 a**

The municipalities are entitled to a refund of a calculated tax on the following goods and services, which they have acquired exempt from tax:

- 1) Health and medical care services referred to in Article 34 and services and goods related to the care, referred to in the mentioned Article, as well as services and goods referred to in Article 36, sections 1) - 4),
- 2) services and goods related to the social welfare referred to in Article 37.

The municipalities are also entitled to the refund in respect of subsidies or aids, which they give to persons carrying on the activities referred to in paragraph 1, for the purposes of the activity.

The calculated tax is 5 percent of the purchase price of the goods or services, of the taxable amount for the imported goods referred to in Chapter 9, or of the amount of the subsidies or aids.

The refund is not granted:

- 1) in respect of acquisitions from a municipality, nor in respect of subsidies or aids given to a municipality,
- 2) in respect of remunerations paid on the basis of an employment relationship.

The municipalities shall notify to the Provincial Tax Office the total amount of refunds of the calculated tax received in accordance with paragraphs 1 and 2 for a calendar year, not later than the end of the second month following the calendar year, in so far as that information has not been submitted previously.

### *Undertakings which carry on foreign trade or exempt activity*

#### **Article 131**

An entrepreneur is entitled to a refund of the tax included in the acquisition of goods or services, if the acquisition is related to:

- 1) an activity, which is not subject to tax by virtue of Articles 55, 56 and 58, Article 59, section 4), Articles 70-72 e or Article 72 h,
- 2) the financial services referred to in Article 41 above, the insurance services referred to in Article 44, or to the sale of the exempt bank notes and coins referred to in Article 59, section 1), if the purchaser is an entrepreneur who does not have a domicile or fixed establishment in the Community, or if the sale is directly linked to goods intended for direct exportation outside the Community,
- 3) an activity, for which the purchaser is liable to tax by virtue of Article 8 a, or
- 4) a sale taking place abroad, which would have resulted in liability to tax, or would have entitled to the refund referred to in sections 1) – 3), if the activity had been carried on in Finland.

The right to a refund concerns only tax, which could have been deducted by virtue of the provisions of Chapter 10, if the activity had resulted in the liability to tax.

#### **Article 131 a**

If goods or services are acquired for the purpose of the exempt sale of investment gold referred to in Article 43 a, the entrepreneur is entitled to a refund of:

- 1) the tax payable on taxable investment gold purchased by him from the seller referred to in Article 43 c,
- 2) the tax included in the acquisition of other gold, which is transformed into investment gold by him, or under his mandate,
- 3) the tax payable on services purchased by him and consisting of change of form, weight or purity of investment gold or other gold.

If goods or services are acquired for the purpose of the exempt sale of investment gold referred to in Article 43 a, an entrepreneur producing investment gold, or transforming investment gold or other gold into investment gold, is entitled to the refund of the tax, which is included in the acquisition of goods or services linked to the production or transformation, and which could have been deducted by virtue of the provisions of Chapter 10, if the activity had resulted in the liability to tax.

An entrepreneur is entitled to the refund of the tax included in the acquisition referred to in paragraphs 1 and 2, even when the acquisition is related to a sale taking place abroad, which would have entitled to the refund referred to in paragraphs 1 or 2, if the activity had been carried on in Finland.

#### **Article 132**

A foreigner is not entitled to the refund referred to in Articles 131 or 131 a if he is entitled to a refund by virtue of Articles 122 or 122 a.

#### *Special provisions*

#### **Article 133**

The provisions of this Act concerning use, which entitles to deduction, and concerning deductible tax also apply to the use, which entitles to a refund, and to the refundable tax referred to in Articles 130, 131 and 131 a.

The provisions of Articles 21 and 22 concerning goods manufactured or services performed in connection with taxable business also apply to goods manufactured or services performed in connection with an activity, which entitles to the refund referred to in Articles 131 and 131 a.

The provisions of Chapters 13 - 23 concerning persons liable to tax also apply to persons who are entitled to the refund referred to in Articles 130, 131 and 131 a and to intra-Community acquirers of goods, who are not liable to pay tax by virtue of Article 72 f.

The provisions of paragraph 3 do not, however, apply to persons who do not in Finland make any sales other than sales, which entitle to the refund referred to in Article 131 and who do not wish to use their right to the refund. Nevertheless, the provisions of paragraph 3 are applicable, when the matter concerns the sale of investment gold referred to in Article 43 b or sales referred to in Article 72 a.

The provisions of Chapters 13 - 22 concerning deductible tax and persons liable to tax also apply to the refundable tax referred to in Article 130 a and to those who are entitled to the refund.

#### **Article 133 a**

When a new means of transport, which has been acquired for purposes other than those, which entitle to deduction, is sold so that the seller, the purchaser, or someone else on their behalf, transports the means of transport from Finland to another Member State, the seller is granted a refund of the tax included in the acquisition of the means of transport. However, no refund is granted to the extent that the said tax exceeds the tax, which the seller would be liable to pay if the sale was taxable.

The right to the refund arises when the seller has delivered the means of transport to the purchaser.

#### **Article 133 b**

A legal person, who is not an entrepreneur, is entitled to a refund of the tax it has paid on the importation of goods, if the person demonstrates that the intra-Community acquisition of the goods has been taxed in another Member State.

#### **Article 133 c**

A written application of the refund referred to in Articles 133 a and 133 b shall be made to a Regional Tax Office. If the applicant of the refund is not a person liable to tax, the application shall be made to the Uusimaa Regional Tax Office. The application shall be made within one year from the end of the calendar year when the right to a refund arose.

In other respects the provisions concerning value added tax in Title II of the present Act, or in other legislation apply, where applicable. The three year time limit referred to in Articles 192 and 193 of the present Act is calculated from the end of the calendar year covering the period, which the decision concerns.

### **Chapter 12 a**

#### *Special scheme for electronic services*

#### Article 133 d

A person liable to tax and not established in the Community is entitled to use the special scheme referred to in this Chapter if the person liable to tax sells electronic services to a person other than an entrepreneur and supplies the services to the purchaser's permanent establishment in the territory of the Community, or if the services are not supplied to a permanent establishment, when the purchaser's domicile is in the territory of the Community.

A person liable to tax and not established in the Community means an entrepreneur who has neither his domicile nor a fixed establishment in the territory of the Community and who is not, otherwise than due to this special scheme, required to be registered as a person liable to tax in the territory of the Community, by virtue of Article 22, in Article 28 h, Sixth Council Directive, of 17 May 1977, on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (the Sixth Valued Added Tax Directive).

The special scheme is applied to all sales referred to in paragraph 1 performed by the taxable person using the scheme.

Article 9, paragraph 1 is not applied to the sales referred to in paragraph 1 performed, by the taxable person applying the scheme, to a legal person who is not an entrepreneur.

#### **Article 133 e**

*Member State of identification* means the Member State which the person liable to tax and not established in the Community contacts in order to notify of the commencement of the activity referred to in Article 133 d, in accordance with the provisions in this Chapter.

*Member State of consumption* means the Member State in which the electronic services are performed in accordance with Article 9(2)(f) of the Sixth Valued Added Tax Directive.

#### **Article 133 f**

A person liable to tax and not established in the Community, who chooses Finland as the Member State of identification, shall submit by electronic means a notification concerning the commencement of the activity referred to in Article 133 d to the Regional Tax Office referred to in Article 133 o.

The modifications concerning the information provided in the notification of the commencement, as well as the cessation of the activity, or the change of the activity to the extent that the taxable person is no longer entitled to use the special scheme, shall be notified by electronic means to the Regional Tax Office.

The National Board of Taxes issues more detailed provisions concerning the information to be provided in the notification concerning the commencement of the activity and the way of presenting the information referred to paragraphs 1 and 2.

A person liable to tax and not established in the Community, who chooses a Member State other than Finland as the Member State of identification and who shall pay tax to Finland, shall comply with the corresponding provisions applied in the Member State of identification.

#### **Article 133 g**

The person liable to tax referred to in Article 133 f, paragraph 1 shall be entered in the identification register and an individual identification number shall be issued to him. The Regional Tax Office notifies the person concerned by electronic means of the identification number.

The person liable to tax referred to in paragraph 1 shall be removed from the identification register if:

- 1) he notifies that he no longer performs electronic services,
- 2) in otherwise can be assumed that his taxable activities have ceased,
- 3) he no longer fulfils the preconditions for the application of the special scheme, or
- 4) he persistently fails to comply with the rules concerning the special scheme.

A person liable to tax and not established in the Community, who has chosen a Member State other than Finland as the Member State of identification and therefore, is registered in the identification register of the Member State in question, shall also be entered in the register referred to in paragraph 1.

The Regional Tax Office notifies the person liable to tax referred to in paragraph 1 by electronic means of the entry in and removal from the register referred to in this paragraph as well as of the fact that, notwithstanding the notification, the person concerned has not been entered in or removed from the register.

#### **Article 133 h**

A person liable to tax and not established in the Community whose Member State of identification is Finland shall submit by electronic means a tax return for each tax period whether or not electronic services have been sold during the tax period. The return shall be submitted to the Regional Tax Office mentioned in Article 133 o.

In the tax return shall be declared:

- 1) the identification number of the person liable to tax,
- 2) itemized for each Member State of consumption where tax is payable, the total value, excluding tax, of electronic services for the tax period, the corresponding total amount of tax and the applicable tax rate,
- 3) the total amount of the payable taxes referred to in section 2).

The tax period for the taxable person referred to in paragraph 1 is a calendar quarter. The tax return shall be submitted not later than the 20<sup>th</sup> day of the calendar month following the tax period.

The tax return shall be made in euro. If the sales have been made in other currencies the exchange rate valid for the last day of the tax period shall be used in the tax return. The exchange rates published by the European Central Bank for that day, or if there is no publications on that day, on the next day of publication, shall be used in the conversion.

The National Board of Taxes issues more detailed provisions concerning the way of submitting the electronic return referred to in article 1.

In respect of the tax payable to Finland, a person liable to tax using the special scheme whose Member State of identification is a Member State other than Finland shall comply with the corresponding provisions applied in the Member State of identification.

#### **Article 133 i**

The person liable to tax referred to in Article 133 h, paragraph 1 shall pay as accountable tax for the tax period the total amount of payable taxes referred to in article 133 h, paragraph 2, section 3) not later than the 20<sup>th</sup> day of the calendar month following the tax period. The tax shall be paid to a bank account denominated in euro, designated by the National Board of Taxes.

In respect of the tax payable to Finland, a person liable to tax using the special scheme whose Member State of identification is a Member State other than Finland shall comply with the corresponding provisions applied in the Member State of identification.

#### **Article 133 j**

A person liable to tax using the special scheme may not make the deduction referred to in Chapter 10. Instead of that, notwithstanding the provisions of article 122, paragraph 1, he is entitled to the refund referred to in article 122.

The right to a refund applies only to tax which could have been deducted by virtue of the provisions of Chapter 10 if the person liable to tax had been liable to tax in respect of his activity, in accordance with the general provisions of the Act.

#### **Article 133 k**

A person liable to tax using the special scheme shall keep accounts of the business transactions covered by the special scheme in sufficient detail to enable the Member State of consumption to determine that the tax return referred to in Article 133 h is correct.

The information referred to in paragraph 1 shall be made available electronically, on request, to the National Board of Taxes, a Regional Tax Office or the Fiscal Attorney for the Treasury if Finland is the Member State of identification or the Member State of consumption. The National Board of Taxes issues more detailed provisions concerning the way of submitting the electronic information.

The information shall be kept for a period of ten years from the end of the calendar year, during which the business transaction took place.

#### **Article 133 l**

Unless otherwise provided for in this Chapter, the provisions of Chapters 13 – 22 concerning persons liable to tax also apply, where applicable, to persons liable to tax using the special scheme whose Member State of identification is Finland. In so far as the tax payable to Finland is concerned, the same applies to a person liable to tax whose Member State of identification is another Member State.

#### **Article 133 m**

In so far as the tax to be accounted to another Member State is concerned, the provisions of Chapter 13 concerning the periodization in time are not applied to a person liable to tax using the special scheme whose Member State of identification is Finland.

#### **Article 133 n**

The provisions of article 147, paragraph 1 concerning the payment of tax are not applied to a person liable to tax using the special scheme.

#### **Article 133 o**

Matters concerning a person liable to tax using the special scheme rest with a Regional Tax Office determined by the National Board of Taxes.

#### **Article 133 p**

The provisions of Articles 161 and 162 and Article 164, paragraph 1 concerning the declaration obligation and tax period are not applied to a person liable to tax using the special scheme.

**Article 133 q**

A person liable to tax using the special scheme is not entered in the register of persons liable to value added tax referred to in Article 172.

The provisions of Article 175, paragraph 1 concerning the notification of the registration measures to the person concerned are not applied to a person liable to tax using the special scheme.

**Article 133 r**

In so far as the tax payable to another Member State is concerned, the provisions of Chapter 19 concerning the imposition of tax are not applied to a person liable to tax using the special scheme whose Member State of identification is Finland.

However, the provisions of Article 182 concerning the tax increase may be applied to the person liable to tax referred to in paragraph 1.

**Article 133 s**

Tax to be paid to Finland on the basis of a tax return of the person liable to tax using the special scheme shall be imposed within one year from the end of the calendar year covering the tax period for which the tax return has been submitted if the return has been submitted within the time limit provided for in Article 133 h, paragraph 3. After the time limit mentioned above, the reassessment of tax may be carried out, under the preconditions set out in Article 179, within three years from the end of the calendar year covering the tax period for which the tax should have been paid.

If a person liable to tax using the special scheme pays the accountable tax to Finland for a tax period without debiting after the time limit provided for in Article 133 h, paragraph 3, or if the tax has not been paid within the mentioned time limit, an additional tax shall be paid or imposed in respect of the tax, in accordance with Article 183.

**Article 133 t**

In so far as the tax payable to another Member State is concerned, the provisions of Chapter 20 concerning guidance and advance rulings are not applied to a person liable to tax using the special scheme whose Member State of identification is Finland.

**Article 133 u**

If a person liable to tax using the special scheme has declared the accountable tax to Finland for a tax period in excess, he may correct the error by deducting the tax declared in excess from the accountable tax to Finland for the subsequent tax periods of the calendar year.

After the calendar year, the accountable tax to Finland paid in excess is paid to a person liable to tax who has not made the correction referred to in paragraph 1, on application, or on the basis of other received evidence. The tax may be refunded within three years from the end of the calendar year for which the person liable to tax has declared excessive tax, or even later on basis of a request submitted by the person liable to tax within the mentioned period of time.

For the purposes of the Articles 187, 192, 193 and 204 the accounting period of the person liable to tax using the special scheme is considered to mean the calendar year covering the tax period in question.

**Article 133 v**

In so far as the tax to be accounted to another Member State is concerned, the provisions of Article 209 a concerning the liability to issue invoices are not applied to a person liable to tax using the special scheme whose Member State of identification is Finland.

**Article 133 x**

The provisions of Article 218 concerning the value added tax infringement are applied to a person liable to tax using the special scheme if he, despite a request by the authorities, neglects to fulfil properly his obligations under Articles 133 f, 133 h or 133 k.

**TITLE II****Chapter 13****Periodization****Article 134**

For the purpose of accounting of the tax, tax payable on sales and deductible tax are assigned to a calendar month in accordance with the provisions of this Chapter.

**Article 135**

Tax payable on sales is assigned to the calendar month during which the liability to pay tax has arisen in accordance with Articles 15 and 16.

**Article 136**

In the situations referred to in Article 15 section 1), the tax, which in accordance with Article 135 belongs to an accounting period may, during the accounting period, be assigned to the calendar month during which the purchaser has been invoiced for the delivered goods or performed services. If no invoicing is applied, the tax may be assigned to the calendar month during which the selling price or a part thereof has accrued.

At the end of the accounting period the tax on selling prices referred to in paragraph 1, which has not been invoiced, or if no invoicing is applied, which has not accrued, shall be assigned to the last calendar month of the accounting period. When the liability to tax ceases, the tax shall be assigned to the last calendar month of the activity.

**Article 137**

A person liable to tax to whom the Accounting Act does not apply, or who by virtue of that Act has the right to draw up his financial statement in accordance with the payment principle, may in the situations referred to in Article 15 section 1) assign tax payable on sales to the calendar month during which the selling price or a part thereof has accrued.

When the liability to tax ceases, the tax payable on the selling prices referred to in paragraph 1, which have not accrued, shall be assigned to the last calendar month of the activity.

(Article 138 has been repealed.)

#### **Article 138 a**

An intra-Community sale of goods is assigned to the calendar month following the month of delivery of the goods. However, if the purchaser has been given an invoice or a corresponding document concerning the delivered goods during the month of delivery, the sale is assigned to the month of delivery.

#### **Article 138 b**

An intra-Community acquisition of goods is assigned to the calendar month following the one during which the liability to pay the tax has arisen by virtue of Article 16 a. However, if the purchaser of the goods has received an invoice or a corresponding document concerning the received goods during the month of reception, the acquisition is assigned to the month of reception.

#### **Article 139**

An entry referred to in Article 78, paragraph 1 to be deducted from the taxable amount and an addition to be made due to accrued credit losses referred to in Article 78, paragraph 2 are assigned to the calendar month, in which they should be entered in the accounts in accordance with good accounting practice.

When the liability to tax ceases, the entries mentioned in paragraph 1 are assigned to the last calendar month of the activity.

#### **Article 139 a**

In respect of sales of returnable packages and transport appliances referred to in Article 85 b the same tax rate may be applied during an accounting period as the one applied to the sales of the packed or transported goods, if the sales cannot be differentiated without considerable difficulties. The tax unpaid for a calendar month is assigned, at the latest, to the last calendar month of the accounting period.

#### **Article 140**

The amounts to be deducted from the taxable amount, referred to in Article 80, paragraph 2, and the purchase price of goods acquired during the tax period, referred to in Article 79 k, paragraph 2, are assigned to the calendar month during which the services or goods have been received.

The amounts to be added to the taxable amount by virtue of Article 83, paragraph 3, or to the profit margin by virtue of Article 79 k, paragraph 4, are assigned to the calendar month during which the goods or services have been taken into other use or the purchaser has been invoiced for the goods referred to in Article 79 h.

If a dealer liable to tax applies the general provisions of the present Act to the sales of works of art, collectors' items or antiques imported by himself, or to the sales of such works of art bought by himself, the sales or intra-Community acquisitions of which have been subject to the reduced rate in accordance with Article 85 a, paragraph 1, section 8), the tax included in the acquisition is deducted in respect of the calendar month to which the tax payable on the sales of the goods is assigned.

### **Article 141**

The deductions referred to in Chapter 10 above are assigned to the calendar month during which:

- 1) purchased goods or services have been received,
- 2) the purchase price or a part thereof has been paid before the time referred to in section 1),
- 3) goods or services have been taken into use, which entitles to deduction,
- 4) imported goods have been cleared by customs,
- 5) the tax referred to in Article 102 section 4) above has been paid.

### **Article 141 a**

A deduction concerning an intra-Community acquisition of goods is assigned to the same calendar month as the tax payable on the acquisition.

### **Article 142**

During an accounting period a deduction, which by virtue of Article 141, section 1) belongs to the accounting period, may be assigned to the calendar month during which the person entitled to deduction has been invoiced for the delivered goods or performed services. If no invoicing is applied, the deduction may be assigned to the calendar month during which the purchase price or a part thereof has been paid.

The deductions for purchases referred to in paragraph 1, which have not been invoiced at the end of the accounting period, or if invoicing is not applied, which are not paid for at that time, are assigned to the last calendar month of the accounting period. When the liability to tax ceases the deduction is assigned to the last calendar month of the activity.

### **Article 143**

A person liable to tax to whom the Accounting Act does not apply, or who by virtue of that Act has the right to draw up his financial statement in accordance with the payment principle may, in the situations referred to in Article 141, section 1), assign the deduction to the calendar month during which the purchase price or a part thereof has been paid.

When the liability to tax ceases, the deduction for the unpaid purchases referred to in paragraph 1 is assigned to the last calendar month of the activity.

### **Article 144**

The deduction for a purchased immovable property or a building service referred to in Article 103 is assigned to the calendar month during which the immovable property has been received or the building service has been completed and received.

The deduction for an immovable property referred to in Article 104 is assigned to the calendar month during which the immovable property has been received.

### **Article 145**

The deductions referred to in Article 106 and Article 112, paragraph 2 above are assigned to the calendar month during which the liability to tax began.

**Article 146**

The correction referred to in Article 118 above is assigned to the calendar month in which it should be entered in the accounts according to good accounting practice.

When the liability to tax has ceased the correction referred to in paragraph 1 is assigned to the last calendar month of the activity.

**Chapter 13 a****The taxation procedure in certain situations of intra-Community acquisitions****Article 146 a**

If the purchaser of a new means of transport referred to in Article 26 d, paragraph 1, section 1) is not liable to tax for other activity by virtue of the present Act and if car tax is payable on the means of transport by virtue of the Car Tax Act (1482/94), the provisions concerning car tax apply in respect of the payment of value added tax payable on intra-Community acquisitions, of the tax authorities, of the declaration obligation, of the imposition of tax, of advance rulings, of appeals and of the reimbursement of tax.

**Article 146 b**

If the purchaser of goods subject to excise duty referred to in Article 26 e is a person whose other acquisitions do not constitute an intra-Community acquisition by virtue of Article 26 c, paragraph 2, the provisions of the Excise Duty Application Act (1469/94) apply in respect of the payment of value added tax payable on intra-Community acquisitions of goods subject to excise duty, of the tax authorities, of the declaration obligation, of the imposition of tax, of advance rulings, of appeals, of the reimbursement of tax and of other procedure.

**Chapter 14****Payment of tax****Article 147**

A person liable to tax shall pay to the State the difference between the payable taxes and the deductible taxes assigned to a calendar month in accordance with Chapter 13, (*accountable tax*), not later than the 15<sup>th</sup> day of the second month following the calendar month.

The purchaser of a new means of transport referred to in Article 26 d, paragraph 1 above, who is not liable to tax for other activity by virtue of the present Act and to whom the provisions of Article 146 a do not apply shall, however, pay the tax not later than on the date on which the means of transport is to be registered.

A person liable to tax referred to in Article 162, paragraph 4 of the present Act shall pay the accountable tax for a calendar year not later than the end of February following the end of the calendar year.

If the date of payment falls on a holiday or on a Saturday the tax may be paid on the first working day thereafter.

### **Article 148**

Tax, which has been paid after the time limit provided for in Article 147, paragraph 1, but not later than within one year after the end of the accounting period, is considered to have been paid in respect of the calendar month for which the person liable to tax has declared it to have been paid, or in respect of the calendar month for which he should otherwise be regarded as having paid it.

Tax, which has been paid after the time limit provided for in Article 147, paragraph 3, but not later than within the calendar year during which the imposition of tax is to be carried out according to Article 178, paragraph 2, is considered to have been paid in respect of the calendar year for which the person liable to tax in his tax return has declared it to have been paid, or for which he should be regarded as having paid it.

If the tax referred to in paragraphs 1 or 2 has been debited, or if the tax is paid after the time limit provided for in paragraphs 1 or 2, the payment shall be used for the payment of debited but unpaid tax, tax increases, tax supplements as well as penal interest for delayed payment, tax surcharges and penal interest for delay.

### **Article 149**

If the deductions referred to in Chapter 10, or in Articles 78 or 80, cannot be made in full when calculating the accountable tax for a calendar month, the amount not deducted is assigned to subsequent calendar months. On application, or on the basis of other evidence, the Regional Tax Office pays the tax, which has not been deducted for an accounting period, after the end of that period. If the person liable to tax has applied for a refund of tax not deducted after the end of the accounting period, it may not be deducted during subsequent accounting periods.

By way of derogation from paragraph 1, in cases where the deductible tax for an accounting period is likely to exceed the tax payable on sales, the tax not deducted for a calendar month is paid to the person liable to tax calendar monthly in the course of the accounting period.

In the course of an accounting period and upon consideration of the taxes paid for the accounting period, of the taxes which are likely to be paid on sales and of the deductible taxes, the person liable to tax may, for special reasons, be paid the tax, which is likely to be refunded to him according to paragraph 1.

The Regional Tax Office pays the tax referred to in paragraphs 2 and 3 to the person liable to tax on application. The application shall be made on an approved form. The National Board of Taxes issues more detailed provisions concerning the minimum amount of tax to be refunded on application to the person liable to tax.

A person liable to tax referred to in Article 162, paragraph 4 is, however, not entitled to the refunds referred to in paragraphs 2 and 3 above, paid in the course of an accounting period.

## **Chapter 15**

### **Refund of tax to certain foreign entrepreneurs**

#### **Article 150**

The refunds referred to in Articles 122 and 122 a shall be applied for in writing to the Uusimaa Regional Tax Office.

An application for a refund shall relate to a period, which covers not less than three successive months within the same calendar year and not more than one calendar year. An application may,

however, be made for a period shorter than three months, if the application relates to the latter part of the calendar year.

An application according to paragraph 2 may also relate to taxes on acquisitions, in respect of which the right to a refund has arisen earlier in the same calendar year, but which have not been included in earlier applications.

An application shall be made within six months from the end of the calendar year covering the period, to which the application relates.

#### **Article 151**

An application for a refund shall be drawn up in Finnish or Swedish on a form approved by the National Board of Taxes.

The following documents shall be attached to the application:

- 1) the original invoice or corresponding document issued by the seller, or the original customs clearance decision and the related documents,
- 2) a certificate, which the tax authority in the home country of the applicant has issued, not later than one year ago, concerning the nature of his business,
- 3) any other documents necessary in order to make a decision on the application.

The National Board of Taxes issues more detailed provisions concerning the information, which is to be submitted in the application, and the documents to be attached to it.

#### **Article 152**

The refund is paid to the postal giro account or bank giro account in a bank situated in Finland and indicated by the applicant, or as a withdrawal from a postal giro account. At the request of the applicant the refund may be paid into a bank situated in another Member State, in which case the bank charges caused by the payment of the refund shall be borne by the applicant. No interest is paid on the refund.

The Regional Tax Office shall, without delay, return the original documents referred to in Article 151, paragraph 2, section 1), which the applicant has attached to the application for a refund.

#### **Article 153**

If too much tax has been refunded as a result of incorrect or deficient information submitted by the applicant, the excess amount shall be imposed on the applicant. The debiting decision shall be made not later than within three years from the end of the calendar year, which covers the period to which the incorrect refund decision relates.

#### **Article 154**

An amount to be debited by virtue of Article 153 may be increased by not more than 30 per cent if the applicant has submitted incorrect information in the application for a refund or in evidence related to it. If the incorrect information has been submitted by gross negligence or intentionally, the amount to be debited may be tripled, at the maximum.

A tax increase is imposed in respect of the amount to be debited, from the date when the refund has been paid until the date of maturity to be established, including the last mentioned date. In other

respects the tax increase is calculated according to the provisions of the Act on Additional Tax and Penal Interest for Delays (1556/95).

#### **Article 155**

Notice of requests for supplementary evidence and of decisions concerning a refund, or its recovery, may be served to the applicant by sending them by post to the address provided by him. Unless otherwise demonstrated, the person concerned is considered to have been received notice of the matter on the seventh day after the document has been left to the post for delivery.

#### **Article 156**

Title II of the present Act and other legislation concerning value added tax, where applicable, apply to refunds and amounts debited by virtue of Article 153.

The three year time limit referred to in Articles 192 and 193 of the present Act is calculated from the end of the calendar year covering the period to which the decision relates.

### **Chapter 16**

#### **Tax authorities**

#### **Article 157**

The general supervision of taxation rests with The National Board of Taxes.

The imposition of tax and the refund of tax, the supervision of payment of tax as well as the levy of tax rests with The Regional Tax Offices.

The Uusimaa Regional Tax Office settles questions concerning the right to the refund referred to in Article 122 and attends to other tasks associated with the refunds.

#### **Article 158**

Matters concerning a person liable to tax rest with the Regional Tax Office within whose jurisdiction the home municipality of the person liable to tax is. The home municipality is considered to be the municipality where State tax would be imposed on the person liable to tax in accordance with the Taxation Procedure Act (1558/1995). If the home municipality changes in the course of a calendar year and if the new home municipality is situated within the jurisdiction of another Regional Tax Office, the Regional Tax Office preceding the removal is competent until the end of the calendar year.

If Article 13 of the Fiscal Administration Act does not provide otherwise, the Regional Tax Offices may conclude agreements, which deviate from the provisions of paragraph 1 concerning their competence in respect of a person liable to tax, if it is necessary for the supervision of payments. The person liable to tax shall be notified of the decision, if it is necessary for fulfilling the declaration obligation, for lodging an appeal or for other reasons.

Matters concerning a group of persons liable to tax referred to in Article 13 a above rest with the Regional Tax Office within whose jurisdiction the home municipality of the entrepreneur referred to in Article 13 b is situated.

(Article 159 has been repealed)

**Article 160**

The customs administration is responsible for the taxation of imported goods and its supervision in accordance with the separate provisions thereon.

**Chapter 17****Declaration obligation****Article 161**

The person who starts a taxable activity referred to in Article 1 shall submit a start-up notification referred to in the Business Information Act (244/2001) before starting the activity.

An amendment and termination notification referred to in the Business Information Act shall be made without delay concerning modifications of the information provided in the start-up notification and concerning the cessation of the taxable activity.

The provisions of paragraphs 1 and 2 do not apply to a person liable to tax referred to in Article 147, paragraph 2.

**Article 162**

The person liable to tax shall submit a tax return for each tax period.

In the tax return the turnover, the payable and the deductible tax and any other information, which the National Board of Taxes has determined to be necessary for the determination of the correct amount of the tax, shall be declared.

The tax period is a calendar month. The tax return shall be submitted not later than the 15<sup>th</sup> day of the second month following the calendar month. A notification to the effect that there will not be any tax to pay may be submitted in advance for several months.

However, the tax period is one calendar year for a natural person, the estate of a deceased person or a partnership, which engages in primary production, and for a artist who made a work of art referred to in Article 79 c, provided that they do not carry on any other activity subject to value added tax. The tax return for the calendar year shall be submitted not later than the end of February following the calendar year.

Notwithstanding the provisions of paragraph 4 those engaged in primary production and the artist, referred to in that paragraph, is entitled, on application, to change over to a monthly tax return procedure referred to in paragraph 3.

The monthly declaration obligation referred to in paragraph 5 commences at the beginning of the calendar year, which follows the calendar year when the application was made. This procedure applies until the preconditions for liability to tax have ceased to apply or until fundamental changes have occurred regarding the activity.

In the present Act primary production means agriculture, forestry, horticulture, hunting, fishing, fish breeding, cray fishing, crayfish breeding, furred animal breeding and reindeer holding, as well as the collecting of reindeer moss and cones, or the collection of other such natural products. Agriculture means agriculture proper, as well as such special agriculture or activity related to agriculture or forestry, which is not to be regarded as a separate business.

(Article 162 a has been repealed).

#### **Article 162 b**

The person liable to tax shall submit a recapitulative statement for each calendar quarter concerning the intra-Community sales referred to in Article 72 b and 72 c.

A recapitulative statement shall also be submitted when an intra-Community acquisition of goods made by the person liable to tax is considered to have been taxed in the State of arrival of the transport, by virtue of Article 63 f.

(Paragraph 3 has been repealed)

Annual and turnover discounts, purchase and sales rebates, surplus refunds, other such adjustment entries, or other changes concerning the sales, which have been granted to the purchaser and which concern sales declared in a recapitulative statement, shall be declared in the recapitulative statement for the calendar quarter covering the month, in respect of which they should be entered in the accounts in accordance with good accounting practice.

The statement shall be submitted not later than the 15<sup>th</sup> day of the second month following the calendar quarter.

The National Board of Taxes issues more detailed provisions concerning the information to be provided in the recapitulative statement and the way of presenting the information.

#### **Article 163**

The application for the advance refund referred to in Article 149, paragraph 4, the start-up, modification and termination notifications referred to in Article 161, the tax return referred to in Article 162 and the recapitulative statement referred to in Article 162 b may also be submitted by electronic means.

The National Board of Taxes issues more detailed provisions concerning the way of submitting the electronic information.

#### **Article 164**

The tax returns and the recapitulative statements shall be submitted to the Regional Tax Office referred to in Article 158.

(Paragraph 2 has been repealed)

A return or statement arrived by mail is considered to have been submitted when the consignment containing the return or statement has been posted to the address of the Regional Tax Office. A return or statement in computer language form is considered to have been submitted when the information has reached the Regional Tax Office.

#### **Article 165**

The person liable to submit a declaration shall sign the documents to be submitted to the tax authorities. The declarations and other documents of a corporation shall be signed by persons who have the right to sign for it.

The person liable to tax whose tax period is a calendar month need not, however, sign the tax return.

The provisions of paragraph 1 are not applied to declarations to be submitted by electronic means to the tax authorities.

#### **Article 166**

The Business Information Act contains provisions concerning the persons responsible for fulfilling the declaration obligation provided for in Article 161.

The declaration obligation, other than the obligation referred to in Article 161, is incumbent on the Board of Directors or on the management of a corporation. The declaration obligation of a general partnership, a limited partnership company, a shipping partnership or other partnership is incumbent on the partner who is responsible for the tax by virtue of Article 188, paragraph 2.

The guardian for a person under guardianship, the administrator appointed for an absentee and the manager of the estate of a deceased person, or if the estate has been divided, the person who managed the estate during the division, is responsible for fulfilling the declaration obligation in respect of other notifications than those referred to in Article 161.

A representative in Finland of a foreigner is also, on behalf of the latter, responsible for the fulfilment of his declaration obligations referred to in paragraphs 1 and 2 above.

#### **Article 167**

The Regional Tax Office shall on request issue a certificate confirming the reception of the document.

#### **Article 168**

Anyone who has neglected to submit a tax return or a recapitulative statement within the prescribed time, or who has submitted a deficient return or statement, shall fulfil his obligation at the request of the Regional Tax Office.

A person liable to tax shall also on request provide any supplementary evidence, which is necessary for the purpose of the imposition of tax.

#### **Article 168 a**

If a person liable to tax has neglected to submit a recapitulative statement without justified reason, or if he has submitted an incomplete or incorrect statement, the Regional Tax Office may impose upon the person liable to tax a fine for the neglect, to an amount of not less than EUR 80 and not more than EUR 1,700.

The provisions concerning value added tax apply to the debiting, the levy, the recovery and the accounting of the fine for the neglect.

#### **Article 169**

At the request of the National Board of Taxes, of a Regional Tax Office or of the Fiscal Attorney for the Treasury a person liable to tax shall present, for the purpose of an audit made in Finland, his accounts, his notes and all material related to the activity as well as all other material and assets, which may be necessary for his taxation or for hearing an appeal concerning his taxation.

An audit report shall be drawn up, unless there are special reasons not to do so.

More detailed provisions are issued by decree concerning the procedure to be applied in the audit and concerning the material and the assets to be presented.

#### **Article 169 a**

An audit may also be carried out exclusively for the purpose of collecting information, which can be used in the taxation of another person liable to tax (*audit for comparison purposes*).

However, an audit for comparison purposes cannot be carried out in a licensed credit institution, referred to in the Act on Credit Institution Activity (1607/93), nor in a licensed branch office of a credit institution, referred to in the Act on the Operation of Foreign Credit Institutions or Financial Institutions in Finland. Nevertheless, information obtained in the audit of a credit institution or the branch office of a credit institution on the basis of Article 169 may, however, be used in the taxation of another person liable to tax.

#### **Article 170**

At the request of the National Board of Taxes or of a Regional Tax Office and on the basis of a name, an account number, an account transaction, or of some other specific information, everybody is obliged to provide information, which appears from documents in his possession, or to which he otherwise has access, if that information may be required for handling a case concerning the taxation or an appeal of another person liable to tax, provided that the person concerned is not entitled to refuse to give evidence in the case by virtue of law. Nevertheless, information which is relevant for taxation and which concerns a financial position, must always be provided.

At the written request of an authority referred to in paragraph 1 the Post- and Telecommunications Administration shall provide information concerning money orders, C.O.D. money orders and other payment transactions, which have been effected by mail.

The authorities referred to in paragraph 1 have the right, in the manner provided for in Article 169, to audit or to have audited those business and other documents, from which information referred to in paragraphs 1 and 2 may be obtained.

#### **Article 170 a**

At the request of the National Board of Taxes or a Regional Tax Office a seller of investment gold shall present for audit the material referred to in Article 209 c and to provide information concerning it.

#### **Article 171**

At the request of the National Board of Taxes or a Regional Tax Office, State and municipal authorities and other public bodies shall provide or present for audit such information, which may be necessary for handling a case of taxation or of appeal, and which appears from documents in possession of the authority or other public body, or to which they otherwise have access, however provided that the information does not concern a matter on which evidence must not be given by virtue of law. Nevertheless, information which is relevant for taxation and which concerns a financial position, must always be provided.

**Article 171 a**

The tax authorities are entitled to receive free of charge the information necessary for taxation purposes, referred to in the present Chapter.

If an authority of the State, or of a municipality provides extensive and bulk information, the tax authorities pay the relevant authority for the average costs accruing to that authority for providing the information, with the exception of general administrative and capital costs as well as costs for hiring machines and appliances and the costs for their premises.

**Chapter 18****Registration****Article 172**

The persons liable to tax are entered in a register of persons liable to value added tax, with the exception of the persons liable to tax referred to in Article 147, paragraph 2.

**Article 173**

The Regional Tax Office enters the person liable to tax in the register from the start of the taxable business. The person liable to tax may, however, be entered in the register as soon as he starts acquiring goods and services for the purposes of taxable business.

A person liable to tax by virtue of Articles 12, 26 f and 30 is entered in the register at the earliest from the date of the application. If an entrepreneur referred to in Article 30 may make the deduction referred to in Article 106, he is, however, liable to tax from the start of the activity referred to in Article 30.

A group of persons liable to tax referred to in Article 13 a is considered to have been constituted at the earliest at the time of application.

**Article 173 a**

A precondition for the approval of an application referred to in Article 12, paragraph 2 above is that a foreigner has a representative, who is domiciled in Finland and who has been approved by the Regional Tax Office. In addition the Regional Tax Office may require a guarantee for the payment of the tax.

The representative referred to in paragraph 1 above shall keep such accounts concerning the business of the person liable to tax, that reliable information can be obtained about circumstances of importance for the calculation of the tax. The basic accounting material shall be kept in Finland for five years from the end of the accounting period to which the material relates.

The provisions of Article 169 concerning the obligations of the person liable to tax also apply in respect of the representative referred to in paragraph 1.

**Article 174**

The Regional Tax Office removes a person liable to tax from the register from the cessation of the taxable business. The taxable business may be regarded as continuing as long as the entrepreneur or his receiver in bankruptcy sells the business assets, which the entrepreneur has acquired. If

however the receiver in bankruptcy independently carries on the entrepreneur's business, the entrepreneur's liability to tax is always regarded as having ceased at the latest at the time when he was declared bankrupt.

A person liable to tax by virtue of Article 12 and a person liable to tax, whose total sales volume does not exceed the threshold in euro referred to in Article 3, are removed from the register from the date when the person liable to tax presented a request to that effect.

A person liable to tax by virtue of Article 30 is not removed from the register on his own request but only when the preconditions for liability to tax have ceased to apply.

A group of persons liable to tax referred to in Article 13 a above is considered to have been dissolved from the date of presentation by the entrepreneurs belonging to the group of a request to that effect.

#### **Article 174 a**

A decision made by a Regional Tax Office by virtue of Article 26 f remains in force for the period stated by the purchaser, however for not less than two calendar years.

#### **Article 175**

The Regional Tax Office notifies the person concerned about the entry in and the removal from the register and about the constitution and the dissolution of a group of persons liable to tax referred to in Article 13 a. The Regional Tax Office also notifies that the person concerned has not been entered in or removed from the register, by way of derogation from the notice or request, or that a group of persons liable to tax has not been constituted or dissolved.

At the request of the person concerned, or of the Fiscal Attorney for the Treasury, the Regional Tax Office issues a decision in matters of registration or of the constitution or dissolution of a group of persons liable to tax.

### **Chapter 19**

#### **Imposition of tax**

#### **Article 176**

On the basis of presented declarations as well as other evidence the Regional Tax Office imposes the unpaid tax on the person liable to tax.

When the tax is imposed, a careful examination concerning justice and equity in the case shall be conducted, taking into account the interests both of the State and of the person liable to tax, on the basis of the evidence apparent from the declarations or of other sources of information concerning the business transactions and other relevant circumstances of the person liable to tax, or on some other basis.

#### **Article 177**

If the person liable to tax has neglected to pay tax, or has manifestly paid too little tax and has neglected, despite requests, to provide the information required for the imposition of tax, the Regional Tax Office shall impose the unpaid tax on the basis of assessment.

Best endeavours shall be made to find out the amount of unpaid tax by calculations made on the basis of purchases, customary sales commissions, wages, salaries or other such cost items, or by comparison with the business conducted by other persons liable to tax in the same branch and under corresponding conditions.

Before the tax is imposed, the person liable to tax shall be given the opportunity to present his evidence concerning the calculations, on the basis of which the tax has been determined, and concerning the reasons why it is intended to impose the tax on the basis of assessment.

The decision concerning the imposition of tax shall contain a calculation concerning the determination of the tax. The reasons why the tax has been imposed on the basis of assessment shall be indicated in the decision.

#### **Article 178**

Tax to be paid on the basis of a tax return shall be imposed within one year from the end of the accounting period, if the tax return has been submitted within the time limit provided for in Article 162, paragraph 3.

If the tax period is a calendar year and if the tax return is submitted within the time limit provided for in Article 162, paragraph 4, the tax to be paid on the basis of the tax return shall be imposed not later than the end of the calendar year during which the tax return has been submitted.

If the tax period is a reindeer husbandry year and if the tax return is submitted within the time limit provided for in Article 13 c, paragraph 4, the tax to be paid on the basis of the tax return shall be imposed within one year from the end of the reindeer husbandry year.

#### **Article 179**

After the time limit provided for in Article 178, a reassessment of tax may be carried out. By way of reassessment of tax the person liable to tax shall be imposed the tax, which is unpaid, or which has been refunded in excess, because he has neglected to submit a declaration or because he has submitted a deficient, misleading or incorrect declaration, other information or document. The reassessment of tax can be carried out within three years from the end of the accounting period covering the calendar month for which the tax should have been paid. If the tax period is a calendar year, the reassessment of tax can be carried out within three years from the end of the calendar year for which the tax should have been paid, or if the tax period is a reindeer husbandry year, within three years from the end of the reindeer husbandry year for which the tax should have been paid.

When the person liable to tax has passed away his estate is subject to reassessment of tax. The reassessment of tax shall be made within one year from the end of the calendar year when the inventory of the deceased person's estate has been filed with the Regional Tax Office.

Before a reassessment of tax is carried out, the person liable to tax, or his estate, shall be given the opportunity to present his evidence.

#### **Article 180**

A reassessment of tax can be renounced, if the neglect to pay tax, or the excessive refund of tax referred to in Article 179, are due to an error, because of which another person liable to tax has been charged too much tax, or the tax referred to in Articles 122 or 131 has not been refunded. A precondition for the renunciation is that the person liable to tax presents a commitment given by the person who is entitled to a refund that he waives his right to it. No tax is refunded to the person who has given the commitment.

A reassessment can also be renounced, when the unpaid tax or the excessive refund are considered to be insignificant and if the imposition of tax is not required for reasons of equitable taxation, or for other reasons. The National Board of Taxes issues more detailed provisions regarding the question when a reassessment of tax can be renounced.

#### **Article 181**

If a situation or a measure has been given a legal form, which does not correspond to the true nature or purpose of the matter, taxation shall be carried as if the correct form had been used.

If the consideration for sales of goods or services has been agreed or established at an amount lower than what may be considered reasonable, or if some other measure has been taken for the manifest purpose of reducing the tax to be paid, the amount for which tax shall be paid may be confirmed by assessment.

#### **Article 182**

The tax may be increased:

- 1) by not more than 30 per cent, if the person liable to tax has wholly neglected to pay the accountable tax for a tax period within the prescribed time limit, or if he has manifestly paid too little tax,
- 2) by not more than 10 per cent, if a tax return or some other information or document contains a minor deficiency and if the person liable to tax has not complied with a request to correct it,
- 3) by not more than 20 per cent, if the person liable to tax, without justified reason, has neglected to submit a tax return or some other information or document in due time, or if he has submitted a substantially incomplete tax return, other information or document. The tax may be increased to not more than twice its amount, if the person liable to tax, even after having received a prescribed request and without any valid obstacle, has wholly or partly neglected to fulfil his obligations,
- 4) to not more than twice its amount, if the person liable to tax, by gross negligence has omitted to fulfil his declaration obligation, or has submitted a substantially incorrect tax return, other information or document.

If the neglect, the submission of an incorrect return, information or other document referred to in paragraph 1, section 4), has taken place for the purposes of committing tax fraud, the tax shall be increased by not less than 50 per cent and to not more than three times its amount.

The tax increase is imposed only on the tax to which the deficiency or the incompleteness referred to in paragraphs 1 and 2 relates.

If the tax cannot be increased as provided for above, the Regional Tax Office may impose a tax increase of not more than EUR 15,000. In that case the precondition for the imposition of the tax increase is that the person liable to tax, despite a request demonstrably sent, has neglected to submit a registration notification or tax return, or has submitted a substantially deficient or incorrect notification or return, and that the neglect is not minor under the prevailing the circumstances, or otherwise. The Regional Tax Office may impose a tax increase because of gross neglect of the declaration obligation also in those cases where it has debited the tax by assessment and has later corrected the debiting on the basis of subsequently provided evidence to the effect that no tax is debited.

#### **Article 183**

If the person liable to tax pays the accountable tax for a tax period without debiting after the time limit provided for in Article 147, he shall pay an additional tax on his own initiative, in connection with paying the tax.

If the accountable tax for a tax period has not been paid within the time limit provided for in Article 147, an additional tax is imposed in respect of the unpaid tax. An additional tax is also imposed in respect of tax paid after the time limit, if the person liable to tax has not paid the additional tax provided for in paragraph 1 in respect of that tax.

The additional tax referred to in paragraphs 1 and 2 above is calculated according to the provisions of the Act on Additional Tax and Penal Interest for Delays. However, for particular reasons the authorities may calculate the additional tax from a later time than provided.

If the tax has been imposed wholly or partially by assessment in respect of a period longer than one calendar month, or if it is not otherwise possible to determine, without an unreasonable amount of additional work, for which calendar month the tax has been unpaid, the time from which the additional tax is calculated may be estimated, taking into account the probable distribution of the unpaid tax over different months.

When tax is imposed on the basis of an appeal made on behalf of the State and when a tax already paid by the person liable to tax, but reimbursed to him, is recovered to the State, the amount of additional tax is the same as the interest provided for in Article 11 of the Decree Concerning the Procedure for Levying Taxes.

#### **Article 184**

When tax, additional tax or a tax increase is imposed on the person liable to tax, he shall be served notice of a tax bill and a decision with instructions how to appeal. The tax shall be paid within the time determined by the Ministry of Finance.

The person liable to tax shall be served notice of a decision concerning a reimbursement of tax. The instructions how to appeal shall be attached to the decision.

#### **Article 185**

If the Fiscal Attorney for the Treasury considers that tax, additional tax or a tax increase should be imposed on a person liable to tax, the Regional Tax Office shall make a decision in the matter on his request.

(Article 186 has been repealed)

#### **Article 187**

Tax to be reimbursed to a person liable to tax shall be paid without delay.

Interest is paid on tax to be reimbursed according to the provisions of the Decree Concerning the Procedure for Levying Taxes (903/78). The interest is calculated from the end of the second calendar month following the accounting period. In case the person liable to tax has paid the tax only after the time mentioned above, the interest is calculated from the date of payment.

#### **Article 188**

Tax is imposed jointly and severally on the person liable to tax and on other persons responsible for the tax.

The partners of a general partnership and the active partners of a limited partnership are jointly and severally responsible for the tax of the general and the limited partnership, respectively. The same responsibility applies to the partners of a partnership referred to in Article 13 and to the partners of a shipping partnership.

All the entrepreneurs belonging to a group of persons liable to tax referred to in Article 13 a above are jointly and severally responsible for the taxes of the group.

The responsibility of the partners referred to in paragraph 2 and of the entrepreneurs referred to in paragraph 3 starts from the beginning of the month during which they join the partnership or the group of persons liable to tax and ceases at the end of the month during which they withdraw from the partnership or group.

The persons responsible for tax are entered in the decision of the Regional Tax Office. If a person or an entrepreneur responsible for the tax and referred to in paragraphs 2 or 3, has not been entered in the decision, the Regional Tax Office shall, after having heard the person or entrepreneur concerned, order him to be responsible jointly and severally with the person liable to tax for the paying of the tax.

## **Chapter 20**

### **Guidance and advance ruling**

#### **Article 189**

The Regional Tax Office gives guidance in matters relating to value added taxation.

#### **Article 190**

If the matter is important for the applicant, the Regional Tax Office issues, on a written application, an advance ruling how the law shall be applied to a business transaction of the applicant. An advance ruling will not be issued if the matter has been settled by a decision of the Central Tax Board, or if an application for such a decision is pending with the Board.

The application shall contain a specified description of the question for which an advance ruling is applied. The evidence necessary for settling the matter shall be presented with the application.

An advance ruling is issued for a specified period of time, however not for longer than to the end of the calendar year following the one when the ruling was issued. On request of the person having received an advance ruling, which has acquired legal force, the ruling shall have binding effect during the period of time for which it has been issued.

The Regional Tax Office, the Uusimaa County Administrative Court and the Supreme Administrative Court shall deal with questions concerning advance rulings as matters of urgency.

Advance rulings concerning tax payable on the importation of goods are issued by the Board of Customs. The provisions concerning advance rulings issued by a Regional Tax Office apply, where applicable, to the issue and validity of advance rulings by the Board of Customs.

#### **Article 190 a**

On application, the Central Tax Board may issue an advance ruling on the question how the law shall be applied to a business transaction of the applicant, as provided for in the Act on the Central Tax Board (535/96).

## **Chapter 21**

### **Corrections and appeals**

#### **Article 191**

If a person liable to tax has declared too much tax to be paid or too little deductible tax for a calendar month, he may correct the error by deducting the tax declared in excess for the subsequent calendar months of the accounting period.

After the accounting period the tax paid in excess or not refunded is paid to a person liable to tax who has not made the correction referred to in paragraph 1, on application, or on the basis of other received evidence. The tax may be refunded within three years from the end of the accounting period for which the person liable to tax has declared excessive tax, or even later on basis of a request submitted by the person liable to tax within the mentioned period of time.

However, the Regional Tax Office refunds the tax paid in excess already in the course of the calendar year to an intra-Community acquirer, who is not liable to tax for other activities.

#### **Article 192**

If the Regional Tax Office, either on application of the person liable to tax, as a result of an appeal or for other reasons, finds that its decision is incorrect to the detriment of the person liable to tax, the Regional Tax Office shall correct the error in its decision and pay to the person liable to tax the tax paid in excess or not refunded due to the error, unless the matter has been settled by a decision on appeal.

The correction may be made within three years from the end of the accounting period to which the decision subject to correction relates, or if that decision relates to several accounting periods, within three years from the end of the last one, or even later on the request of the taxable person submitted within the mentioned period of time.

#### **Article 193**

Appeals against decisions of the Regional Tax Office by virtue of the present Act concerning value added taxation are lodged with the Uusimaa County Administrative Court. The Fiscal Attorney for the Treasury in the Regional Tax Office is competent to lodge appeals on behalf of the State. The letter of appeal shall be submitted to the Regional Tax Office within the appeal period.

For a person liable to tax the appeal period is three years from the end of the accounting period or, if the decision relates to several accounting periods, from the end of the last one, however, never less than 60 days from the reception of notice of the decision. An entrepreneur is entitled to appeal against a decision concerning an advance ruling and against a decision referred to in Article 175, paragraph 2 within 30 days after having received notice of the decision. The notice of a decision may be served without using the procedure of advice of reception by the addressee. In that case notice of the decision is considered to have been received on the seventh day after the decision was left to the post for delivery, unless otherwise demonstrated. The appeal period for the Fiscal Attorney for the Treasury is 30 days from the time the decision was made.

Appeals may not be lodged against a decision not to issue an advance ruling, nor against a decision upon an application referred to in Article 149, paragraph 4.

The provisions in the Act on the Recovery of Taxes and Fees by Executory Process (367/61) concerning appeals regarding the material basis of taxes and fees do not apply in respect of matters covered by the present Act.

#### **Article 194**

The Regional Tax Office shall provide in respect of appeals lodged by the Fiscal Attorney for the Treasury the person liable to tax, and in respect of appeals lodged by the person liable to tax the Fiscal Attorney for the Treasury, the opportunity to give a reply and, if necessary, also a rejoinder.

If the Regional Tax Office corrects its decision in the manner referred to in Article 192, in conformity with the request of the person liable to tax, the appeal lapses.

To the extent that the Regional Tax Office considers that there is no reason to correct its decision because of the request presented by the person liable to tax in his appeal, the Regional Tax Office shall give its opinion concerning the appeal and shall provide the person liable to tax the opportunity to give his reply to the opinion within a specified time.

The letter of appeal of the Fiscal Attorney for the Treasury and the letter of appeal of the person liable to tax referred to in paragraph 3, the replies, the rejoinders, the opinions and any other documents drawn up during the examination of the case shall be sent, without delay, to the Uusimaa County Administrative Court.

#### **Article 195**

The County Administrative Court may delegate to the Regional Tax Office the task of serving notice of its decision.

(Article 196 has been repealed)

#### **Article 197**

The provisions of the Customs Act apply, where applicable, to corrections of and appeals against decisions of the customs authorities. An appeal may not be lodged against a decision not to issue an advance ruling.

#### **Article 198**

Appeals against decisions of a County Administrative Court may be lodged with the Supreme Administrative Court, if the Supreme Administrative Court grants an appeal permit.

The grounds for granting an appeal permit are that:

- 1) it is important that the case is to be submitted to a hearing by the Supreme Administrative Court from the point of view of applying the Law in other similar cases, or in the interest of a coherent legal practice,
- 2) there are particular reasons to submit the case to a hearing by the Supreme Administrative Court due to a manifest error having taken place in the case,
- 3) there are particularly important economic or other reasons for granting an appeal permit.

An appeal permit may also be granted so as to concern only part of the decision of the County Administrative Court, which is subject to the appeal.

An appeal shall be lodged within 60 days from the reception of notice of the decision of the County Administrative Court. The letter of appeal shall be submitted to the Supreme Administrative Court, or to the Uusimaa County Administrative Court, within the appeal period.

#### **Article 199**

The Fiscal Attorney for the Treasury in the Regional Tax Office is competent to lodge appeals on behalf of the State to the Supreme Administrative Court.

(Article 200 has been repealed)

#### **Article 201**

The party appealing shall be given a copy of the decision of the Supreme Administrative Court. Furthermore, copies of the decision shall be sent to the Uusimaa County Administrative Court in duplicate, or when an appeal has been lodged on behalf of the State in triplicate.

#### **Article 202**

If a County Administrative Court, or the Supreme Administrative Court amends a decision referred to in Article 175, paragraph 2 due to an appeal of them Fiscal Attorney for the Treasury, the Court shall at the same time determine the time from which the decision shall apply.

#### **Article 203**

If it appears, in the hearing of an appeal, that tax has not been imposed or refunded by a competent Regional Tax Office, the County Administrative Court or the Supreme Administrative Court shall refer the case to the competent Regional Tax Office, unless they consider that they can settle the case immediately.

#### **Article 204**

If the amount of tax payable or deductible for an accounting period of a person liable to tax has been amended by a decision concerning the debiting, reassessment, refund or correction of tax, by a decision concerning a renewed examination, or by a decision given in response to an appeal, in such a way that the decision has an impact on the amount of tax payable or deductible for another accounting period, the amount of tax payable or deductible for the latter accounting period is corrected in accordance with the amendment. The correction can be made despite the fact that the preconditions for reassessment of tax are lacking.

#### **Article 205**

The person liable to tax and other persons responsible for the tax are liable to pay the tax imposed despite the fact that the taxation is subject to an appeal.

If tax has been repealed or reduced by decision of the County Administrative Court or the Supreme Administrative Court, the tax paid in excess or not refunded shall be paid to the person concerned as provided for in Article 187.

**Article 206**

If the County Administrative Court or the Supreme Administrative Court, due to an appeal, has considered that somebody is a person liable to tax, or increased the amount of tax, or reduced the amount to be paid to a person liable to tax, a copy of the decision shall be delivered to the Regional Tax Office. The latter shall, without delay, determine a period for paying the tax and issue a tax bill as provided for in Article 184.

**Article 207**

The provisions of Chapter 13 of the Act on Administrative Procedures (586/1996) apply in respect of the compensation for litigation costs.

**Article 208**

If different opinions arise in a hearing of an appeal on the basis of the present Act, the opinion of the majority constitutes the decision. In the case of equal votes, the opinion, which is more advantageous for the person liable to tax constitutes the decision, or if this principle cannot be applied, the opinion supported by the Chairman.

**Article 208 a**

For those persons liable to tax, who are not liable to keep accounts, the accounting period is the calendar year.

**Chapter 22****Special provisions****Article 209**

A person liable to tax shall organize his accounts in such a manner that the information required for the imposition of tax can be obtained from them. A person liable to tax who is not liable to keep accounts shall keep such notes that the information required for the imposition of tax can be obtained from them. More detailed provisions concerning accounts and notes are issued by decree.

**Article 209 a**

A seller liable to tax shall give the purchaser of goods or services a receipt of the sale, if the purchaser is an entrepreneur, or a legal person who is not an entrepreneur. A receipt shall also be given for payments to account. The selling price of the goods or services, exclusive of tax, and the amount of the tax payable on the sale at various tax rates shall be entered on the receipt.

In respect of sales referred to in Article 63 a the seller shall give the purchaser a receipt even though the purchaser is not an entrepreneur.

The seller of goods or services referred to in Article 130 a, paragraph 1, shall give the municipality a receipt of the sale.

In respect of the sales referred to in Articles 66 a, 67 a, 67 b, 69 and 72 a the seller shall also enter the value added tax identification number of the seller and of the purchaser on the receipt. In respect of the sales of new means of transport, the receipt shall also contain the information required for establishing the existence of the preconditions referred to in Article 26 d, paragraph 1.

In respect of the resale referred to in Article 72 g the seller shall on the receipt enter the price of the goods, exclusive of tax, the amount of tax at various tax rates, his own and the purchaser's value added tax identification number and a mention that the matter concerns a triangular transaction.

When the seller has opted for taxation by virtue of Article 43 c he shall enter on the receipt a note indicating that the sale is subject to tax.

In respect of the sales referred to in Articles 8 a and 9 the seller shall enter a note on the receipt that the purchaser is liable to tax.

More detailed provisions concerning the entries on the receipt are issued by decree.

#### **Article 209 b**

A person liable to tax shall keep a register of the goods, which he or someone else on his behalf transports to another Member State for the purposes of the business transactions referred to in Article 18 b, paragraph 1, sections 1) - 3).

#### **Article 209 c**

A seller of investment gold referred to in Article 43 a and 43 c above shall identify his customer always when the value of one business transaction, or the aggregate value of several interlinked business transactions, is not less than EUR 15,000. The seller shall, by available means, identify also the person on whose account the customer referred to above probably acts.

An identification is not required if the customer is an entrepreneur referred to in Article 6, paragraph 6 of the Act on the Prevention and Investigation of Money Laundering (68/1998).

More detailed provisions concerning the identification of the customers and the entries of the business transactions referred to in paragraph 1 are issued by decree.

The material referred to in paragraphs 1 and 3 shall be kept for a period of six years from the end of the calendar year in which the accounting period ended, during which the business transaction, or the latest of several interlinked business transactions, took place.

#### **Article 210**

The National Board of Taxes, or the Board of Customs in cases where the customs authorities have levied the tax, may, for special reasons, on application and on conditions determined by the competent authority, reduce or totally repeal the paid or payable value added tax, additional tax, penal interest for delayed payment, tax surcharges, penal interest for delay and interest due to a respite.

The Ministry of Finance may withhold the right to settle such cases referred to in paragraph 1, which are important for reasons of principle.

The provisions of the present Article concerning the person liable to tax apply, where applicable, also to other persons responsible for tax by virtue of the present Act.

Appeals may not be lodged against decisions made by virtue of the present Article.

#### **Article 211**

The Regional Tax Office may, for special reasons, on application grant a respite for the payment of tax. The National Board of Taxes may, for special reasons, withhold the right to make decision of a respite matter. The Regional Tax Office and the National Board of Taxes grant respites on conditions determined by the Ministry of Finance. The Ministry may likewise withhold the right to settle respite matters. In that case the Ministry determines the preconditions for the respite in its decision on the application.

Separate provisions concerning customs apply in respect of respite for the payment of tax payable on importation of goods.

Appeals may not be lodged against decisions made by virtue of the present Article.

(Articles 212, 212 a and 213 have been repealed)

#### **Article 214**

For purposes of a matter of taxation or appeals the authority, which handles the case, may grant the person liable to tax and the Fiscal Attorney for the Treasury the right to have witnesses heard under oath in the District Court where a hearing of witnesses can conveniently take place. In this case, also the other party has the right to have witnesses heard at the hearing.

#### **Article 215**

The authority, which has heard a witness referred to in Article 214, shall determine that a remuneration is to be paid to the witness. In this case, the provisions concerning the determination of witnesses' remuneration in cases pending before general courts of law apply, where applicable.

The remuneration for a witness appointed by the State is paid from public funds in accordance with the principles applicable to the payment of compensation from State funds to a witness heard in a court. In other cases, the remuneration shall be paid by the party who has appointed the witness.

The provisions of the present Article concerning witnesses also apply to experts, where applicable.

#### **Article 216**

The State Provincial Office and the police shall give the tax authorities any executive assistance required. On request of the tax authorities, the State Provincial Office is also entitled to oblige a person who has not complied with a request made by virtue of Articles 168 or 169 to fulfil his obligation under penalty of a fine.

(Article 217 has been repealed)

#### **Article 217 a**

The provisions of the customs legislation concerning the formalities to be applied to goods to be exported from the customs territory of the Community also apply in respect of goods exported from the tax territory of the Community to a destination within the customs territory of the Community, but outside its tax territory.

### **Article 218**

The provisions of Chapter 29, Articles 1-3 of the Criminal Code apply in respect of the penalty for the commitment of an unlawful evasion of value added tax and in respect of an attempt of such evasion.

The provisions of Chapter 29, Article 4 of the Criminal Code apply to tax infringements in respect of value added tax.

A person who neglects to fulfil properly his obligations under Article 209 c, or who, despite a request by the authorities neglects to fulfil his obligations under Articles 162, 162 b or 165, 166, paragraph 2, 168, paragraph 2, 169, paragraph 1, 170, paragraph 1, 170 a, 209 or 209 a shall be sentenced to a fine for *value added tax infringement*.

The Business Information Act contains provisions concerning the neglect of the declaration obligation referred to in Article 161.

In case of an infringement referred to in paragraph 3, remission may be applied in respect of notice, prosecution or sentence, if the infringement is minor and if it has been remedied without delay.

(Articles 219 and 220 have been repealed)

### **Article 221**

More detailed provisions concerning the implementation of this Act are issued by decree, if necessary.

## **Chapter 23**

### **Provisions concerning entry into force and transitional period.**

### **Article 222**

The present Act enters into force on 1 June 1994.

(Paragraph 2 has been repealed)

Unless otherwise provided for below, the Act applies when sold goods have been delivered or services have been performed, when imported goods have been released from customs control, or when goods or services have been taken into private use on the date of its entry into force or thereafter.

The Turnover Tax Act of 22 March 1991 (559/91) with later amendments is repealed by the present Act. Unless otherwise provided for below, the mentioned Act however applies when sold goods have been delivered or services have been performed, when imported goods have been released from customs control, or when goods or services have been taken into private use before the entry into force of the present Act.

(Paragraph 5 has been repealed)

In the calculation of the total amount of taxable and exempted sales referred to in Article 3 for the year 1994, also those sales effected in the course of 1994, but before the entry into force of the Act are taken into account, which by virtue of the Value Added Tax Act would be taxable or exempted by

virtue of Articles 55, 56, 58 or Chapter 6. The sales, which are taxable by virtue of Article 30, are not included in the calculation of taxable sales.

If foodstuffs referred to in Article 85, paragraph 1, section 1), or animal feeding stuffs referred to in section 2) are delivered, released from customs control or taken into private use before the beginning of the year 1998, the tax payable on sales of goods is 17 per cent of the taxable amount.

#### **Article 222 a**

The Turnover Tax Act, as well as the provisions issued by virtue of it, apply in respect of the repeal of turnover tax and of the respite for the payment of tax also when the decision concerning the case is made after the entry into force of the present Act. However, the competence of the authorities for cases concerning repeal of tax is determined according to Article 210 of the present Act.

#### **Article 223**

Tax is not payable on sales of goods acquired as fixed assets, which have been delivered or released from customs control to the seller, or which the seller has manufactured for private use, before the entry into force of the present Act, if the goods have been acquired for purposes of use other than those which entitle to deduction and if it has not been possible to make a deduction for the goods, or if tax has been paid on the taking of the goods into private use.

(Article 224 has been repealed)

#### **Article 225**

Tax is not payable for sales of goods or services in case tax would not be payable by virtue of the Turnover Tax Act, in so far as consideration for the sales has accrued prior to 1 January 1994.

The present Act does not apply to such services or deliveries of goods, which were not completed on its entry into force, and which would be outside the scope of application of the turnover taxation according to the provisions of the Turnover Tax Act, if measures for the performance of the services or the delivery of the goods had in fact been taken before 1 September 1993. If measures for the performance of the services or the delivery of the goods have been taken on 1 September 1993 or thereafter, the present Act applies in so far as the services have been made or the goods have been delivered to the place of installation after its entry into force.

If the present Act does not apply to building activities, the provisions of the Turnover Tax Act apply to the taking into private use of customary sales products manufactured in connection with building activities also when the taking into private use is effected after the entry into force of the present Act.

Article 33 of the present Act applies to the taking of building services into private use only in so far as the present Act has been applied to the performance of the building services.

#### **Article 226<sup>1</sup>**

#### **Article 227**

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<sup>1</sup> Article 226 provides that Article 83 applies to certain goods. The latter article was repealed in 1995. For that reason Article 226 has not been translated.

A dispensing chemist shall pay tax at the rate provided for in Article 84 on the sales of pharmaceuticals and pharmaceutical products referred to in Article 85, paragraph 1, section 5) of the present Act, if he has been able to make the deduction referred to in Article 50 of the Turnover Tax Act for their acquisition.

#### **Article 228**

The provisions of Chapters 10 and 12 of the present Act concerning deductible and refundable tax apply when sold goods have been delivered or services have been performed, or imported goods have been released from customs control to the person entitled to deduction or to a refund on the date of entry into force of the Act or thereafter. Unless otherwise provided for below, the provisions of the Turnover Tax Act apply to deductions for goods, which have been delivered, or for services which have been performed, or for goods which have been released from customs control, to a person liable to tax and entitled to deduction prior to the entry into force of the Act.

Article 112 of the present Act applies when such goods or services, which have been delivered, performed or released from customs control to the entrepreneur entitled to deduction, or which have been self-produced on 1 October 1991 or thereafter, have been taken into use, which entitles to deduction on the date of entry into force of the Act or thereafter. However, a deduction is not permitted in respect of fixed assets, which have been acquired or self-produced prior to the entry into force of the present Act. The provision applies to goods and services, which are to be taken into a use, which entitles to the refund referred to in Article 130, only if they have been acquired or self-produced after the entry into force of the present Act. Article 52 of the Turnover Tax Act applies to goods, which have been taken into use, which entitles to deduction, prior to the entry into force of the present Act.

#### **Article 229**

Articles 44 and 45 of the Turnover Tax Act apply to industrial buildings the construction of which has started between 1. October 1991 and 31. August 1993. The provisions in force before the entry into force of the Turnover Tax Act apply to buildings the construction of which has started prior to 1. October 1991. Unless special circumstances demonstrate otherwise, the construction is considered to have been started when work on the foundation of the building or structure was initiated, with exception of possible excavation work.

If the construction has started on 1. September 1993 or thereafter, but prior to the entry into force of the present Act, the above mentioned provisions apply to industrial buildings in so far as the building services have been performed prior to the entry into force of the present Act.

#### **Article 229 a**

An entrepreneur is entitled to deduction or to a refund of a calculated tax in respect of a new building or a permanent structure, which he has purchased from the person performing the construction work or the building master, or which he has constructed himself and which he uses in activity subject to value added tax, or in activity, which entitles to a refund referred to in Articles 130 and 131. The amount of the calculated tax is 13,5 per cent of the acquisition expenditure of the building or construction. This provision applies only to buildings the construction of which has been started on 1. January 1994 or thereafter and only in so far as a building service has been performed before 1. June 1994.

The provisions of paragraph 1 concerning new buildings also apply to works for the enlargement, modification, reconstruction or other corresponding works consisting of fundamental improvements on old buildings or permanent structures and to materials used for those works.

The amount of the direct expenditures for the acquisition and construction of the building or the permanent structure, or for the works consisting of fundamental improvements, is considered to constitute the acquisition expenditure for the purpose of calculating the deduction. The acquisition expenditure for a building bought from the building master is considered to be the acquisition expenditure of the building master. If no reliable evidence or information concerning the acquisition expenditure of the building master can be provided, the acquisition expenditure is considered to be 80 per cent of the price paid for the building.

The provisions of Article 33 apply in so far as it has been possible to make the deduction referred to in the present Article in respect of a building service or immovable property. The amount of tax payable is the same as the amount of deduction.

Half of the deduction is made in June 1994 and the other half in January 1995.

### **Article 230**

An entrepreneur is entitled to the deduction referred to in the provisions of Chapter 10 or to the refund referred to in Article 131 in respect of movable property, which is in his possession upon the entry into force of the present Act, and which he has acquired in the unused state as a fixed asset, or which he has manufactured himself, as well as in respect of installation work related to the acquisition, provided that he has not been able to make a deduction for them by virtue of the Turnover Tax Act and provided that the goods have been delivered, self-manufactured or released from customs control on 1. February 1993 or thereafter for the purposes referred to in the mentioned provisions.

However, the provisions of paragraph 1 do not apply to goods the probable period of economic use of which at the time of acquisition was not more than three years, or which have been acquired for the purpose of being installed as parts of a building or permanent structure or as fittings thereof.

Half of the deduction is made in the month of entry into force of the Act and the other half in the eighth month after its entry into force.

### **Article 231**

The provisions of Article 98 and of Chapter 11 concerning payment of tax refunds and deducted calculated tax apply when goods have been exported, delivered or taken into private use on the date of entry into force of the present Act or thereafter.

If it has been possible to make deductions in respect of goods by virtue of Article 47, paragraph 1, sections 1) - 3), of Article 48 or of Article 50 of the Turnover Tax Act, or corresponding deductions by virtue of the provisions in force prior to the Turnover Tax Act, or if tax refunds for imported goods have been paid by virtue of Article 37 of the Turnover Tax Act, or corresponding refunds by virtue of the provisions in force prior to the Turnover Tax Act, and if the goods have been exported, delivered or taken into private use on the date of entry into force of the present Act or thereafter, tax shall be paid for the amount of the effected deduction and the granted refunds shall be recovered, in accordance with the provisions of Article 98 and of Chapter 11 of the present Act.

If it has been possible to make the deductions referred to in Article 50 of the Turnover Tax Act in respect of medical products to be exported abroad, the provisions of Chapter 10 of the Turnover Tax Act apply to refunds of the deducted calculated tax.

### **Article 232**

The provisions of the Turnover Tax Act apply to the periodization in time of taxes payable on sales when goods have been delivered or services have been performed, or consideration, or a part

thereof, has accrued before the time of delivery or performance, or goods have been taken into private use prior to the entry into force of the present Act .

#### **Article 233**

The provisions of the Turnover Tax Act apply to the periodization in time of deductible taxes when goods or services have been received, or taken into use, which entitles to deduction, or when consideration, or a part thereof, has accrued before the time of reception, or when imported goods have been released from customs control prior to the entry into force of the present Act .

#### **Article 234**

Articles 12 and 102 of the Turnover Tax Act apply to sales made prior to the entry into force of the present Act. If an entrepreneur's accounting period is half-finished on the entry into force of the present Act, the part of that period preceding the entry into force is considered to constitute the accounting period for the purpose of Articles 12 and 102.

#### **Article 235**

Article 130 of the present Act applies in respect of goods and services acquired after the entry into force of the present Act and of the Act referred to in Article 130, paragraph 3.

#### **Article 236**

A purchaser is not liable to pay tax by virtue of Article 9 on sales of goods or hiring-out services in so far as he has paid tax on importation of the goods or the objects of hire, if the goods or objects of hire have been released from customs control prior to the entry into force of the present Act.

#### **Article 237**

The Regional Tax Offices and the Central Tax Board may issue advance rulings by virtue of Article 190 already before the entry into force of the present Act.

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