

VAT on supplies of construction products (3/3/18)

The new year has begun with substantial changes to VAT treatment. The new wording of section 142 of the VAT Act extends reverse-charge VAT on construction services to cover supplies of construction products as well. In this article we explain how taxpayers can determine whether a product fits the definition of a construction product in order to apply the new VAT rules correctly.

Supplies of construction products

The amendments of 27 July 2017 to the VAT Act effective from 1 January 2018 provide that reverse-charge VAT is applicable to supplies of construction products, which under section 142(8) of the VAT Act include “every product or industrially manufactured structure intended for incorporation into construction works.” The Construction Act gives a similar definition of construction products.¹ Thus VAT on a domestic supply of construction products is payable to the government by the customer, if the supplier and the customer are both registered taxable persons.

Unfortunately neither the VAT Act nor the Cabinet of Ministers’ Rule No. 17, *Application of provisions of the VAT Act and certain requirements for payment and administration of VAT*, explain the words “every product or industrially manufactured structure intended for incorporation into construction works” in more detail. The State Revenue Service’s *Guidance on applying a special VAT scheme to supplies of construction services and construction products from 1 January 2018* is also silent about how taxable persons are to assess whether a product is a construction product for applying reverse-charge VAT.

According to the State Revenue Service, what statutory requirements apply and whether a product is a construction product for the purposes of the Construction Act should be determined by assessing its intended use or uses. It is the manufacturer’s obligation to declare the intended use or uses of a product before putting it on the market.

The requirements for construction products can be split into three groups:

- Group 1 – construction products covered by Regulation (EU) No. 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC. This Regulation applies to construction products that are subject to harmonised technical specifications, i.e. harmonised standards² or European Assessment Documents;
- Group 2 – construction products covered by Latvian national standards LVS 203 2:2005,³ LVS 156 1:2009,⁴ or LVS 191 1:2012;⁵
- Group 3 – construction products not covered by the harmonised standards, European Assessment Documents or Latvian national standards. Requirements for these construction products are laid down by the Latvian Cabinet of Ministers’ Rule No. 156 of 25 March 2014, *Supervision of the Construction Products Market*.



All registered taxable persons in the supply and distribution chain should take appropriate measures to verify whether a particular product fits the definition of a construction product. This can be easily done by taking the following steps:

1. Check whether the product has a declaration of performance and a CE mark under Regulation 305/2011, where the manufacturer has already stated that this is a construction product covered by harmonised technical specifications (harmonised standards);
2. If the product is not covered by the harmonised standards, then find out whether it is covered by the Latvian national standards;
3. If the product is not covered by the Latvian national standards, then find out whether it is classified as other construction products under Cabinet Rule 156 by checking its technical certificate, instruction, or other type of document attached by the manufacturer to specify the product's intended use or uses.

Accordingly, when making a supply of goods, the taxable person should assess their compliance with the requirements for construction products. If the goods meet the requirements and are supplied to a registered taxable person in Latvia, the supply attracts reverse-charge VAT.

¹ Section 1(11) of the Construction Act

² A list of harmonised standards is available from <http://ec.europa.eu/growth/single-market/european-standards/harmonised-standards/construction-products/>

³ Latvian National Standard LVS 203-2:2005: "Glass materials for construction – Open-mesh fibreglass fabrics for the reinforcement of plastering mortar – Technical rules"

⁴ Latvian National Standard LVS 156-1:2009 "Concrete. The Latvian standard's national annex to European standard EN 206-1. Part 1: Requirements for classification and assurance of compliance"

⁵ Latvian National Standard LVS 191-1:2012 "Steel for the reinforcement of concrete. Part 1: Weldable and non-weldable bars, coils, and de coiled products. Technical rules and compliance assessment"