

European Commission objects to Latvia's request for reverse charge VAT (2/3/18)

Under article 395 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, Latvia requested that the Council, acting on the Commission's proposal, should permit Latvia, in derogation from article 193 of the directive, to apply reverse-charge VAT on domestic supplies of consumer electronics and household electrical appliances. On 12 January 2018 the Commission refused to give Latvia such a derogation.

To fight VAT fraud, Latvia has adopted reverse-charge VAT on supplies of smartphones, integrated circuit devices, tablets, and laptops. Latvia believes this has helped reduce VAT fraud in these industries, but fraudsters have now switched to domestic supplies of consumer electronics and household electrical appliances. Latvia asserts that the risk of fraud is high because of the characteristics of these goods, as they are mostly small size and high value.

This fraud involves a registered taxable person reporting fictitious supplies on which VAT is payable to the government. Having received VAT from the customer, the supplier disappears without paying the VAT to the government.

By making the customer responsible for paying VAT to the government, Latvia wants to fight VAT fraud detected in the distribution of consumer electronics and household electrical appliances. Latvia has adopted reverse-charge VAT on supplies of such goods from 1 January 2018.

The European Commission examined Latvia's request to make sure the basic conditions for granting it are fulfilled, i.e. whether the proposed special scheme will simplify the procedures for taxpayers and/or tax authorities and whether such measures can prevent evasion of particular types of taxes or tax avoidance in general. The Commission has always been cautious on this issue to ensure that any derogations do not hinder the operation of the general VAT system.

The Commission has come to the conclusion that a derogation permitting reverse-charge VAT on supplies of consumer electronics and household electrical appliances could adversely affect fraud at retail level and in other member states, and reverse-charge VAT is not, therefore, deemed an appropriate tool for fighting the fraudulent environment in this industry. A solution should be searched on a larger scale by conducting proper control measures. Latvia is able to approach the Commission for any necessary assistance in fighting VAT fraud. Accordingly, the Commission has objected to Latvia's request for reverse-charge VAT on domestic supplies of consumer electronics and household electrical appliances.

The Ministry of Finance is to accept the Commission's objections and make arrangements for amending section 143.5 of the VAT Act. In the meantime, taxable persons should apply reverse-charge VAT on domestic supplies of consumer electronics and household electrical appliances, as well as monitoring the VAT Act for amendments in order to program their systems back again and charge VAT on such supplies under the general procedure.