

Reporting cross-border supplies made over long period (2) (2/29/18)

Last week we wrote about continuous domestic transactions to be reported once every six months or more frequently. This article explores the tax point in cross-border transactions to identify the right tax period for charging and reporting VAT, issuing a tax invoice and, if necessary, converting your currency.

Consistency with the Directive

To equalise the VAT reporting conditions across the EU, the Latvian VAT Act lay down special conditions for the tax point in cross-border supplies of goods and services over a long period under Council Directive 2006/112/EC on the common system of value added tax.

For supplies of goods to another member state, the VAT Act (Section 31(3-4) of the VAT Act) provides that an intra-Community supply of goods that spans a long period exceeding one month is treated as taking place at the end of each calendar month until it is completed. On the other hand, the VAT Act makes no separate provision for an intra-Community acquisition of goods spanning a long period and merely provides that an intra-Community acquisition of goods is treated as taking place when it actually occurs or when the goods are received, whichever is earlier. It is important to note that under the directive (Article 68 of the Directive), an intra-Community acquisition of goods is treated as actually occurring when a similar supply of goods is treated as actually occurring in the member state concerned. This implies that the restriction of one calendar month is binding also in intra-Community acquisitions of goods.

A transaction has actually taken place when the goods and all ownership rights, including all associated risks, are passed to the customer under the terms of the contract, and receipt of the goods is confirmed by a waybill. This means that the supplier should issue a tax invoice by the 15th day of the next month for goods supplied to the EU, and a VAT-registered customer is liable to account for VAT (reverse charge) (Section 5(1)(3) of the VAT Act).

The most common cross-border supplies of goods that can be made over a long period are related to construction.

Supplies of goods to non-EU countries are not covered by the rules governing transactions made over a long period because a supply actually takes place when the goods are actually supplied (Section 31(1) of the VAT Act), as confirmed by an export declaration.

The VAT Act provides that (Section 32(4) of the VAT Act) where cross-border services are supplied continuously over a long period exceeding one year, and the customer accounts for VAT (reverse charge), but no tax invoice is issued and no payment made during that period, the supply will be treated as made at the end of each calendar year until completion of the services.

Last week we mentioned an example involving a company in Latvia that makes a long-term loan and charges a certain amount of annual interest payable together with the final repayment of the loan. If such a loan is made to an EU or a non-EU borrower and no tax invoices have been issued nor payments received for these interest revenues during the year, then interest revenues should be calculated by

December in the tax year and included in the amount of exempt transactions on the VAT return for December.

Examples of such continuous services include lawyer, marketing, consulting and other similar services, which may be rendered over a number of years. Unless the service fee is defined as a success fee, such continuous services are also subject to the requirement for issuing a tax invoice and reporting the transaction (the tax point). Accordingly, where such continuous services are supplied to customers within or outside the EU, a tax invoice should be issued in each December or more frequently.

Another category of services covered by a special provision for the tax point under the VAT Act (Section 32(6) of the VAT Act) is intra-Community freight transport services (including those related to transits or exports). These services are treated as supplied (the tax point) when the goods are handed over to the customer and their acceptance is confirmed by a waybill (CMR). So the tax point will be based on the date of the waybill and the customer's signature on it.