

VAT Act to be amended (2/48/18)

The Cabinet of Ministers is to debate proposals for amending the VAT Act that bring a number of important changes to the VAT treatment and some clarifications.

The proposals help Latvia perform its obligations towards the EU by adopting rules on supplies of vouchers and e-commerce, aligning provisions of the Latvian VAT Act with the CJEU interpretation of exempting VAT on supplies within a cost sharing group (the cases of *DNB Banka* and *Aviva*), prescribe the VAT treatment of supplies of development rights, clarify the scope of reverse-charge VAT on supplies of metal products, and exclude supplies of construction products and consumer electronics.

VAT treatment of voucher supplies

The VAT Act is to prescribe the VAT treatment of voucher supplies in line with Directive 2016/1065. The proposals give new definitions of a “voucher,” a “single-purpose voucher” and a “multiple-purpose voucher,” offer new clauses prescribing the VAT treatment of voucher supplies and the taxable amount, and make the rules applicable to vouchers issued after 2018.

In an annotation to the proposals, the Ministry of Finance explains that the rules of Directive 2016/1065 do not extend to situations where the end consumer does not use a multiple-purpose voucher during its validity and the seller keeps the consideration received for it, and that the VAT treatment remains unchanged for public transport tickets and monthly passes, as well as tickets to sports and culture events.

Granting development rights

From 1 January 2017, amendments to the Civil Code introduce the right of development, a new legal concept. This is an inheritable and disposable property right granted by contract, which allows its holder to erect non-residential buildings or engineering facilities on the landowner's plot and to use them as owner during validity of the development right. Under the VAT Act, the transfer of a development right is a supply of service, i.e. the sale (conveyance) of an intangible asset. The VAT Act is to provide that the taxable amount of the supply of a development right is the consideration for granting it, and where it is sold by auction, VAT is chargeable on its auction price.

E-commerce

To ease the administrative burden on companies and encourage small and medium entities to make cross-border e-commerce supplies, the VAT Act is to provide that from 1 January 2019 (similar to the VAT directive¹) electronic communications, broadcasting and electronically supplied services will be treated as supplied in the supplier's member state if his total cross-border supplies (excluding VAT) do not exceed €10,000. Thus, companies that supply such services and do not exceed the threshold will be able to avoid having to register for the MOSS scheme. Article 128 of the VAT Act is to be amended to provide that a tax invoice should be issued under the rules of the member state of identification.

The VAT Act is to be amended also regarding non-EU entities that are unable to enjoy the MOSS scheme if they are registered in a member state for other taxable supplies: the definition in article 140.1(1)(4) a “taxable person that does not carry on a business in the EU” is to have the words “who has no other

obligation to be registered in the EU for tax payment purposes” deleted.

An independent group of persons (IGP)

Following CJEU rulings C-326/15 *DNB Banka* and C-605/15 *Aviva*, which provide that a VAT exemption available under the VAT directive on supplies within a cost sharing group should be interpreted strictly to exclude financial and insurance services, the VAT Act is to have a new article 52.1 prescribing a stricter exemption on types of business and IGP members (only Latvian-registered taxable persons). Also, the Latvian State Revenue Service should be notified of an IGP being formed and of its members in a statement enclosing a written agreement on services the IGP will provide to its members.

The reverse-charge VAT scheme

Since the European Commission has prohibited Latvia from adopting reverse-charge VAT on supplies of construction products, consumer electronics and household electrical appliances, Latvian law is to provide that reverse-charge VAT on construction products and consumer electronics is only applicable through 31 December 2019.

By decision of 2 October 2018, the Council has allowed Latvia to apply reverse-charge VAT on supplies of semi-finished ferrous and non-ferrous metal products. Article 143.4 of the VAT Act provides that reverse-charge VAT is applicable to supplies of metal products and related services. To align it with the scope of article 199(a)(1)(j) of the VAT directive, article 143.4 of the VAT Act is to be amended to prescribe categories of goods attracting reverse-charge VAT from 1 January 2019 and to exclude services.

We will keep our subscribers informed of key changes.

¹ Directive 2006/112/EC has been amended with effect from 1 January 2019 to set a threshold of €10,000 on intra-Community supplies. Up to this threshold, services eligible for the special VAT scheme for electronic services will be treated as supplied in the supplier's member state.