

COVID-19 implications: tax solutions 1/13/20



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To deal with the consequences of COVID-19, the Latvian government has decided to add tax solutions to its package of social and business measures.

In addition to the current statutory solutions available for honouring tax obligations, the government intends to adopt rules allowing taxpayers to split a late tax payment into instalments or to postpone it for a longer period. And these rules will even cover taxpayers who have already received a tax extension.

The government also intends to place the State Revenue Service ("SRS") under an obligation to refund an approved amount of VAT to all taxable persons instead of accruing it until the end of the tax year.

The proposed tax solutions will also support individuals that carry on a business, allowing them to refrain from paying advance personal income tax in 2020 without incurring a late fee.

As we await tax measures from the Latvian government agencies to mitigate the adverse consequences of COVID-19, we need to remember that we already have some ways of protecting our business from unfair VAT costs.

If events are cancelled, the other party defaults on your contract, guests do not arrive at your hotel, you cannot use services, goods or materials you have acquired etc, it is worth considering the principles of charging and deducting VAT that will help you pay VAT only to the extent required by your business and no more.

In the situation caused by COVID-19, VAT should not become a cost to your business if –

- you can no longer use goods or services you have acquired or produced;
- you have received a prepayment or deposit but your services will no longer be available;
- your business is under an obligation to pay damages.

Both the VAT Act and the case law permit you to refrain from adjusting your input VAT deductions and from paying output VAT if you have acquired goods or services with VAT, but for objective reasons you no longer carry out your intended business activities, projects, or supplies of goods or services to your customers.

Any business being suspended because of COVID-19 needs to be seen to have been suspended for objective reasons. In other words, if you are unable to use the acquired goods or services in your business later on, you will find it important to prove your reasons to the SRS and submit appropriate documents and information supporting your reasons. For example, you may have organised an event, paid for necessary facilities and materials, and received them, but the event is cancelled because of COVID-19.

When hotels receive a prepayment in the form of a deposit, but customers do not arrive and do not get a refund, the hotels will not be liable to pay VAT under the current case law or the VAT Act. The same applies

to other situations where you are forced to cancel your business plans or have already incurred considerable VAT costs because of COVID-19.

However, paying damages should not be allowed to become a service fee, which is a taxable item for VAT purposes, so you need to revise the terms of any contract you have signed or plan to sign. If such compensation is concerned with paying damages, does not represent a fee payable for obligations, and is not linked to the level of damages, VAT would not be due.