

Amended VAT refund rules for EU and non-EU taxable persons 2/8/24



Senior Consultant, Tax Reporting,
Accounting and Strategy, PwC Latvia
Julija Niklasa

Effective from 11 January 2024, the Ministry of Finance has amended the Cabinet of Ministers' Rule No. 1507 of 17 December 2013, 'The procedure for refunding VAT to a taxable person registered in a third country or territory', and Rule No. 1514 of 17 December 2013, 'The procedure for filing a registered taxable person's VAT refund claim in another EU member state and the procedure for refunding VAT to a taxable person registered in another EU member state'.

The amendments apply in particular to EU and non-EU registered taxable persons that are not established in Latvia but acquire services related to real estate (RE) and claim a VAT refund because the services are acquired to make supplies that attract Latvian reverse-charge VAT.

A non-EU registered taxable person that makes at least one taxable transaction in Latvia is required by the VAT Act to register for Latvian VAT or to register its authorised person. However, if such a taxable person supplies goods or services that attract reverse-charge VAT, then Latvian VAT registration is not mandatory.

Previously, the rules governing VAT refunds to EU and non-EU registered taxable persons denied a VAT refund to taxable persons that are not established in Latvia on services related to RE construction, reconstruction, renovation, restoration, repairs or maintenance they acquire in Latvia.

In fact the rules had narrowed the basic principle laid down by sections 112 and 113 of the VAT Act: EU or non-EU registered taxable persons may claim a VAT refund on services they acquire in Latvia if they perform taxable transactions in Latvia that do not make them liable to register for Latvian VAT. This narrowing resulted in the State Revenue Service having difficulty refunding VAT on RE-related expenses to EU or non-EU registered taxable persons that were not liable to register for Latvian VAT.

It's important to note that sections 63(1) and 61(1) of the VAT Act permit EU or non-EU registered taxable persons not to register for Latvian VAT if they supply goods or services that attract reverse-charge VAT. Further, sections 88(2) and 89(2) provide that if an EU or non-EU registered taxable person that is not established in Latvia supplies RE-related services to a Latvian-registered taxable person in Latvia, the services attract reverse-charge VAT.

So the amendments essentially reinstate the VAT Act's principle that a VAT refund should have no restriction when an EU or non-EU registered taxable person supplies services that are treated as supplied in Latvia and attract reverse-charge VAT. It's important to note that VAT refunds to non-EU registered taxable persons that are not established in Latvia are based on the principle of reciprocity. A refund can be claimed by taxable persons registered for VAT in Norway, Switzerland, Iceland, Monaco and the United Kingdom. These are countries that offer a VAT refund to Latvian taxable persons.

The amendments also provide for unrestricted VAT refunds to EU or non-EU registered taxable persons that supply services treated as supplied in Latvia or make distant sales of imported goods treated as performed in Latvia if the OSS or the IOSS scheme is used to pay VAT on those transactions.