

Proposals for amending VAT Act (1) 3/38/24



Manager, Tax, PwC Latvia
Matiss Auzins

As you may know, approval of the national medium-term tax policy guidelines, which was supposed to take place by 1 April 2024, has been delayed considerably. It's not known for sure yet whether and how this will affect VAT treatment in future. However, the Ministry of Finance has drafted proposals for amending the VAT Act, aimed at passing the EU directive to ease the administrative burden on small and medium enterprises (SMEs) and to improve the rules for applying 0% VAT and the margin scheme for second-hand goods, works of art, antiques and collectors' items. The amendments are to come into force on 1 January 2025. This article explores what we see as key changes.

VAT relief for SMEs

For Latvian VAT purposes, SMEs are ones with up to EUR 50,000 in taxable revenue for the previous 12-month period. These businesses are not liable to register for VAT, charge VAT on their transactions or file VAT returns. The SME threshold of EUR 50,000 has been granted to Latvia as a derogation from the VAT directive. And this threshold does not apply to taxable persons established in other member states making taxable transactions in Latvia. A taxable person established in another member state is liable to register for Latvian VAT before it makes a taxable transaction. A similar obligation applies to Latvian businesses making taxable transactions in other member states.

Amendments to the VAT directive effective from 1 January 2025 permit the member states to adopt a VAT registration threshold of up to EUR 85,000 without seeking a special derogation and require the member states to equalise their registration threshold conditions for domestic and non-domestic EU companies.

Accordingly, the VAT Act will have a new concept of annual EU revenue to be considered in determining the registration threshold. SMEs eligible for an exemption from registration in another member state have to meet two conditions:

1. Their revenue in that member state must not exceed the VAT exemption threshold (EUR 50,000 in Latvia).
2. Their total EU revenue must not exceed EUR 100,000.

Sections 59 and 61 of the VAT Act will be amended to provide non-Latvian SMEs with the same rights as Latvian SMEs. Also, section 139.1 will be inserted into the VAT Act to specify how Latvian taxable persons can claim an SME exemption in other member states.

A Latvian taxable person seeking an SME exemption in other member states will have to submit a notification to the SRS via the Electronic Reporting System on the relevant member states and on the taxable person's revenue in the previous and the current year in those member states and Latvia. If the SRS confirms that a Latvian taxable person applies an SME exemption in another member state, his VAT number will get the code 'EX'. A Latvian taxable person exempt from registration in another member state will have to notify the SRS of any changes to the actual situation, which allows him to avoid having to register in another member state, and will have to file quarterly revenue statements via the SRS Electronic Reporting System. Once a member state's registration threshold is reached, SME relief can no longer be

claimed in that country and VAT registration is required. If the total EU revenue exceeds EUR 100,000, SME relief can no longer be claimed anywhere, including Latvia.

It's important to note that persons established in another member state finding they are not liable to register for Latvian VAT will not be deregistered automatically despite them having an 'EX' registration number in another member state. An application has to be made to the SRS in this situation.

Unlike the current rules:

- The VAT registration threshold will be calculated for the calendar year, not 12 months.
- The registration threshold will be determined by reference to not only taxable transactions but also exempt property sales, insurance and finance services, investment fund management services and residential housing rental services, as well as services in which the owner of a building has to pay a fee for the statutory right to use the land. However, a taxable person making only exempt transactions will avoid having to register for VAT. The value of fixed assets and intangible assets supplied by a taxable person will still be ignored in determining the registration threshold.
- The clause allowing a taxable person not to register for Latvian VAT if there are no plans to make taxable transactions in the next 12 months will be deleted.

The proposals introduce a transition period for SMEs whose revenue for the calendar year exceeds the VAT registration threshold by up to EUR 5,000. These SMEs will be allowed to continue the exemption until the end of the calendar year and pay VAT from 1 January in the following year.

It's important to note that for the time being the registration threshold amendments will not affect companies supplying services to a taxable person established in another member state whose place of supply is determined according to section 19(1) of the VAT Act (the customer being responsible for accounting for VAT) or companies acquiring services whose place of supply is determined according to section 19(1) of the VAT Act. In this situation there is still an obligation to register for Latvian VAT before making a transaction.

In future the registration threshold for intra-Community acquisitions of goods prescribed by the VAT Act will apply not only to Latvian but also non-Latvian EU taxable persons. The registration threshold remains unchanged: EUR 10,000.

The place of supply of services

Chapter III of the VAT Act focuses on determining the place of supply of services, which is the basis for determining which country's VAT is due and who has to pay it in cross-border transactions.

The proposals clarify the principles for determining the place of supply of certain services:

- Where tickets are sold to any cultural, artistic, sporting, scientific, educational, entertainment or other event of a similar nature to be attended virtually and these services are supplied to another taxable person, their place of supply should be determined by the general rule, i.e. according to where the customer is located, not where the event actually takes place.
- If a non-taxable person supplies services or ancillary services associated with cultural, artistic, sporting, scientific, educational, entertainment or other events of a similar nature (e.g. fairs and exhibitions), including event organiser services, and the event is streamed or

otherwise made virtually available, the services are treated as supplied at the person's home or declared residence, but if there is none, at their permanent abode.

- The principle of use and enjoyment of services prescribed by section 30(2) of the VAT Act will no longer apply in determining the place of supply of telecommunications, broadcasting and electronic (TBE) services. If these are supplied to a non-taxable person, the current conditions of section 27 will apply, which lays down procedures for determining the place of supply of TBE services. If these are supplied to another taxable person, their place of supply will be determined according to the main rule (section 19(1) of the VAT Act).

Exempt transactions

- An exemption on services related to medicine will be aligned with the sectoral rules. So far, transporting a patient has been exempt if the vehicle is specially equipped with medical devices whose samples have been duly registered. The amendments will exempt transporting a patient in a vehicle specially equipped with medical devices that have been released for free circulation or supplied in accordance with the health legislation.
- Dental and dental hygiene services will be deleted from the list of exempt services in the VAT Act. However, there is no cause for concern, as these are minor wording changes. Dental services will no longer be singled out as exempt because they are already on the list of exempt medical services according to section 52(1)(3). So it's not necessary for the VAT Act to separately specify an exemption for dental services. Also, dental hygiene services are no longer separately specified as exempt because dental medical services include dental hygiene.
- Exempt child accommodation and preschool education services supplied by preschool educational institutions will include an exemption for services that are closely linked with these services and supplied by the preschool educational institution itself. This will secure equal conditions for state-recognised educational institutions and preschool educational institutions.