

Proposals for amending VAT Act (2) 3/39/24



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To pick up where we left off last week, in this article we look at proposals for amending the VAT Act, which include a move to direct application of 0% VAT to diplomatic and consular offices, update the conditions for registering a fiscal representative with the State Revenue Service (SRS) and ease the terms of the special VAT scheme for imports. We will also look at the margin scheme for second-hand goods and exemptions available to non-domestic taxable persons supplying goods in temporary storage.

0% VAT

- The application of 0% VAT will change from indirect to direct on supplies of goods and services used for the official needs of Latvian-registered diplomatic and consular offices.

Indirect application of 0% VAT means the supplier charges VAT at the standard rate of 21% (or an appropriate reduced rate) and the VAT is duly refunded to the customer.

Direct application of 0% VAT means the supplier of goods or services applies 0% VAT on the transaction right away. Direct application is based on a certificate of exemption from VAT and/or excise.

The proposals affect section 50 of the VAT Act.

The proposals do not change the procedures for applying 0% VAT to diplomatic and consular agents, administrative and technical staff and their family members. In future, 0% VAT will be applied indirectly on supplies of goods and services intended for diplomatic and consular agents, administrative and technical staff and their family members, by refunding the tax paid.

- The VAT directive exempts VAT on supplies of goods to approved bodies exporting those goods out of the EU as part of their humanitarian, charitable or educational activities outside the Community.

Only the Support for Civilians in Ukraine Act currently provides for applying 0% VAT on supplies to public benefit organisations. By analogy, section 43 of the VAT Act will have subsection 8 stating that 0% VAT applies on goods being supplied free of charge under a contract to public benefit organisations in Latvia or forwarded to a body recognised by another member state that exports those goods out of the EU for humanitarian and charitable purposes.

Such transactions can be supported by a contract and a statement of delivery and acceptance, or another substantially similar document.

Updated conditions for registering a fiscal representative for Latvian VAT

The restrictions on registering a fiscal representative with regard to duly filed returns and additional information were vague. The amendments to section 65(1)(4) of the VAT Act state that a taxable person will be registered as a fiscal representative if he has submitted tax returns, informational returns and the annual report to the SRS within the time limits set by the tax legislation and has submitted in writing any

additional information required to determine the amount of VAT payable or overpaid within the time limit set by the SRS in the last 12 months. To become a fiscal representative, the late submission of one tax return, informational return and the annual report must not exceed five calendar days in the last 12 months.

Easier terms for obtaining SRS permission to apply the special scheme for imports

As you may know, the special scheme for imports means VAT is 'paid' by reporting it on the VAT return, not physically when goods are released for free circulation.

By analogy with the conditions for a fiscal representative, section 85(4)(5) of the VAT Act will include a clause stating that the SRS may give permission to apply the special scheme for imports where a registered taxable person has delayed the submission of one tax return, informational return and the annual report for up to five calendar days in the last 12 months.

The margin scheme for second-hand goods, works of art, antiques and collectors' items

The margin scheme for second-hand goods aims to prevent double taxation. It provides for only charging VAT on the difference between the selling price and the acquisition cost because the cost in fact contains the input VAT the seller of second-hand goods was not allowed to deduct.

The VAT Act precisely defines cases where the margin scheme is available.

The VAT directive provides that the margin scheme for second-hand goods, works of art, antiques and collectors' items is also available for supplies made by a trader (the middleman between the seller and the buyer) if the goods have been supplied to the trader by another taxable person and are exempt from VAT because the input VAT on them was not deducted, as they had been acquired to make exempt transactions or their acquisition was not related to the taxable person's business, such as luxury, recreation and entertainment expenses.

The current rules of section 138 did not cover all possible situations causing double taxation, and the amendments close this gap.

The right of a taxable person established in another member state, third country or third territory not to register for Latvian VAT if he supplies goods in temporary storage or goods moving from one place of storage to another

A taxable person established in another member state or a third country is exempt from VAT registration if his supplies involve moving goods from a Latvian customs warehouse or free zone to other customs warehouses or free zones in Latvia or elsewhere in the EU. This condition was applied to non-Union goods or Union goods with an export procedure launched.

The customs legislation implies that the handling of goods in temporary storage is governed by equivalent conditions to the handling of goods in a customs warehouse or free zone, and goods in temporary storage can be moved between different places of temporary storage. So, if a taxable person established in

another member state supplies goods not only in a customs warehouse or free zone but also at a place of temporary storage, the conditions for Latvian VAT registration should apply similarly. Temporary storage is restricted to places of temporary storage or other places indicated or approved by customs offices. The operation of places of temporary storage is subject to a licence issued by customs offices.

Sections 61 and 63 of the VAT Act will be amended accordingly.