

More conditions proposed for foreign suppliers seeking natural resource tax exemption: implications for Latvian companies 3/28/22



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With environmentally friendly practices, such as waste sorting and recycling, becoming the order of the day, the natural resource tax (NRT) treatment is a hot topic too. As you know, packaging is one of the items subject to NRT. The obligation to pay tax or the right to take an exemption lies with the person who is the first to sell goods in packaging in Latvia, including foreign companies supplying their goods to Latvian companies. There are plans to amend the NRT Act on how foreign persons may take an exemption.

NRT payers

Under the current provisions of the NRT Act, tax is paid by the person who is the first to sell goods in packaging in Latvia. However, the Act offers an exemption if that person enters into an agreement for participation in the Extended Producer Responsibility Scheme (EPRS). Instead of NRT, a fee is then payable to a waste management company that will perform waste collection, sorting and recycling as well as other functions. Since the NRT system aims to promote waste management, the fee is substantially lower than the tax charge.

The NRT treatment also affects foreign suppliers because tax is payable by the person who is the first to bring in environmentally harmful goods or goods in packaging. Guidance issued by the State Revenue Service (SRS) on how foreign suppliers should pay NRT states that the person who is the first to bring goods into Latvia is the one who is the first to cross the Latvian border. So we need to evaluate which of the parties to the transaction owns the goods when they cross the border. The NRT Act states that instead of a foreign supplier who is not registered as a taxpayer with the SRS, NRT may be paid by the recipient of goods or by another person authorised in writing. However, an exemption subject to a waste management contract means a lower cost.

The NRT rules have so far imposed no restrictions on persons established in other EU member states that enter into agreements in their own name to take part in EPRS, so in practice many EU companies themselves enter into such agreements, and Latvian companies buying goods in packaging from a supplier established in another member state don't always face questions about paying NRT on packaging. There is a restriction, however, on third-country persons entering into agreements to take part in EPRS. The NRT Act states that participation is possible if the third-country person either registers as a taxpayer with the SRS or authorises in writing a person doing business in Latvia to take over the third-country producer's responsibility in Latvia for carrying out his EPRS obligations.

Requirements for a foreign person

Proposals for amending the NRT Act, which are currently awaiting the Cabinet of Ministers' review and approval, provide for adjusting the requirements for a foreign person's participation in EPRS to make those applicable to persons established in other member states as well as in third countries. So in future an EU person marketing goods in packaging in Latvia will be able to take part in EPRS if it registers as a taxpayer

with the SRS or authorises in writing a Latvian company to take over the responsibility in Latvia for carrying out the EPRS participant's obligations. The person established in another member state or a third country will also have to notify the waste manager of that authorised company.

For goods arriving in packaging from a taxpayer established in another member state that is not registered in Latvia, the new legislation creates the need to engage a Latvian company in order to reduce NRT costs and enter into an agreement with a waste manager for participation in EPRS. It might be possible for the parties to agree on this engagement in their contract for the supply of goods.