

Foreign trader has Latvian VAT number – what does that mean for service provider in Latvia?

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Accountants working for Latvian service providers tend to feel confused when they find out that their foreign business partner has a VAT registration number not only in his country of establishment but also in Latvia. What does a foreign trader get a Latvian VAT number for? And how does that affect service providers in Latvia? Read on to find out more.

A foreign trader is liable to register for Latvian VAT for two reasons:

- It has a fixed establishment in Latvia for VAT purposes.
- It carries out activities that make it liable to register for Latvian VAT.

A fixed establishment (FE) for VAT purposes

An FE means an organisational structure permanently located in Latvia that is sufficient in terms of staff and technical resources to assist the foreign trader in supplying services in Latvia, or to acquire and use services supplied for the FE's own needs.

An FE may be liable to register for Latvian VAT, and the registration requirement needs to be assessed on the basis of services acquired and supplied. An FE for VAT purposes will not always match the concept of a permanent establishment for corporate tax purposes.

To find out which country's VAT should be charged and whether a special scheme applies (e.g. domestic reverse-charge VAT), we need to determine the place of supply of services, which is governed by sections 19–30 of the VAT Act.

The place of supply depends on the type of service and the customer. The place of supply is assessed according to where the customer is established, where the supplier is established, or where the services are actually delivered (used). The place of supply of property-related services is generally determined according to where they are actually used, i.e. where the real estate is located.

The existence of an FE shifts the place of supply away from the establishment country to the FE country. Having an FE does not affect services that are treated as supplied where they are actually delivered.

It's important to remember that having a VAT registration number does not necessarily mean the foreign trader has an FE in Latvia, and the existence of a VAT number does not change the place of supply. So, when the service provider – a Latvian taxable person – learns that his foreign business partner has a Latvian VAT registration number, he needs to find out for what purpose that number was received and whether it can affect the place of supply. The service provider is required to invoice correctly and charge the right rate of VAT.

A practical example for a better understanding

X, an Estonian trader, moves goods (timber) from Estonia to a warehouse in Latvia with the intention of finding a buyer and either selling the goods in Latvia or sending them to the buyer in another EU member state or in a third country. X has no staff or technical resources in Latvia. X acquires storage, handling and sorting services from Y, the owner of the Latvian warehouse.

Although the Estonian company does not have an FE in Latvia, it must register for Latvian VAT because the delivery of goods from Estonia to Latvia will be a taxable transaction (a deemed intra-Community acquisition of goods for a consideration). And the onward place of supply will always be Latvia – the supply will attract Latvian VAT (21% or 0% depending on the supply) whether or not it involves carriage.

How should Y go about issuing an invoice and charging VAT if he knows that X has a Latvian VAT registration number and timber-related services attract domestic reverse-charge VAT (section 141 of the VAT Act)?

In this example, the place of supply of storage, handling and sorting services is determined under section 19(1) of the VAT Act. Unless the law provides otherwise, services to a taxable person are treated as supplied:

1. where the customer is established
2. where the customer's FE is located in the case of services supplied to an FE outside the customer's establishment country

Since X does not have an FE in Latvia to receive these services and use them for performing its functions, the services are treated as supplied where the customer is established, i.e. Estonia. The supply attracts reverse-charge VAT under section 19(1) of the VAT Act (article 44 of the VAT directive).

Section 141(2) of the VAT Act does not apply in this case because the services are treated as supplied outside Latvia. Only timber-related services that are treated as supplied in Latvia would qualify for the special scheme for supplies of timber and timber-related services. Section 141 of the VAT Act does not prescribe any special procedure for determining the place of supply, so this is determined under Chapter III of the VAT Act. A tax invoice issued to the customer should give his Estonian VAT registration number.

If the Estonian company had an FE in Latvia (e.g. a foreign trader's branch) and there was reason to believe the FE is acquiring and receiving those services to perform its functions, the place of supply would be Latvia and the supply would qualify for the special timber scheme. A tax invoice issued to the customer would have to give the foreign trader's Latvian VAT registration number.