

# REGISTRATION OF FOREIGN PERSONS AS VAT PAYERS IN THE REPUBLIC OF LITHUANIA

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This publication explains in which cases and when foreign taxpayers are obliged to register as VAT payers in Lithuania. The publication consists of three main parts. The first part consist of legislative acts. The second part is about tha main cases when the obligation to register as VAT payer arises and the third part is about the procedure of the registration process.

## **I. GENERAL PROVISIONS**

### **1.1. This publication is addressed to:**

Foreign persons who intend to do business (carry out economic activities) in Lithuania.

This publication might be useful as it explains:

- the obligation to register as VAT payer;
- the right to register as VAT payer voluntarily;
- the procedure of registering as VAT payer;
- the consequences of not registering as VAT payer.

### **1.2. Legislation of registration as VAT payer in Lithuania**

The registration as VAT payer is regulated by:

- Articles 71, 71<sup>1</sup> and 72 of the Law on Value Added Tax of the Republic of Lithuania (hereinafter - Law on VAT);
- Order of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania No. 178 of 26 June 2002;
- The Law of the Republic of Lithuania on Tax Administration;
- The Resolution No 1059 of the Government of the Republic of Lithuania of 6 September 2000 "Regarding establishment of the Register of Taxpayers and approval of the provisions thereof";
- The Order No VA-95 of the Head of State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania of 17 May 2004 "Regarding assignment of taxpayer's identification number and approval of the description of the application procedure";
- The Order No VA-52 of the Head of State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania of 14 June 2005 "Regarding registration/deregistration of a foreign legal entity in/from the Register of Taxpayers".
- The Order No VA-36 of the Head of State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania of 25 June 2013 "Regarding approval of the Rules of registration/deregistration of Natural persons in/from the Register of Taxpayers".

The legislation is available in the website of the Register of Legal Acts [www.e-tar.lt/](http://www.e-tar.lt/). In event of change of the legislation, please see the version of the document as amended to date.

## **II. THE REGISTRATION AS VAT PAYER**

### **2.1. Who is considered as a foreign person?**

Foreign person is a person (legal or natural) from another European Union (hereinafter - EU) member state or from the country, which is considered as non EU territory (including third territories).

### **2.2. When does the obligation to register as VAT payer for the foreign person arise?**

Foreign person has to register as VAT payer in Lithuania:

- when foreign person supplies goods and/or services in Lithuania (for exceptions please see next question);
- acquires goods in Lithuania from another Member State (for exceptions please see next question);
- Lithuania was chosen as the place for distance selling or the value (excluding VAT paid in another Member State) of the goods supplied in Lithuania under the distance selling scheme during previous calendar year or current calendar year exceeded EUR

35 000, or the goods supplied under the distance selling scheme are subject to excise duties (in this case the threshold of EUR 35 000 is not applicable).

### **2.3. Can a foreign person register as a VAT payer if does not carry out economic activities yet but intends to?**

An enterprise that intends to carry out an economic activity, for example intends to provide goods or services subject to VAT, may register as VAT payer in advance.

### **2.4. In what cases there is no obligation for foreign person to register as VAT payer in Lithuania**

The obligation to register as VAT payer for the foreign person does not arise in the following cases:

- the foreign person supplies in Lithuania only such goods or services which are exempted (Articles 20-33 of the Law on VAT);
- the foreign person supplies only such goods or services which are not subject to VAT;
- the foreign person supplies only such goods or services which are subject to zero-rate VAT (there are some exceptions which are discussed further in the publication);
- the foreign person supplies only such goods or services in respect of which the customer is obliged to calculate and pay VAT under Article 95 (2)-(4) of the Law on VAT;
- the foreign person acquires goods from another Member State (except the new means of transport or the goods which are subject to excise duties) for the activity on which the input/import VAT is not deductible and value of such goods does not exceed the threshold of EUR 14 000 during the calendar year;
- the foreign person supplies goods (except the goods which are subject to excise duties) under the distance selling scheme and the value of the goods which were brought to Lithuania during the calendar year does not exceed the EUR 35 000 threshold (nor this threshold was exceeded during previous calendar year);
- the foreign person acquires new means of transport or goods which are subject to excise duties if such person is not required to register as VAT payer under any other reason (however VAT should be calculated and paid);
- the foreign person supplies telecommunications, broadcasting and electronic services under MOSS scheme (is registered in another Member State).

### **2.5. Is it possible for a foreign person to register as a VAT payer if he intends to tax VAT real estate rent or sale?**

A foreign person who rents and / or sells or otherwise transfers VAT exempt real estate items to the taxable person for VAT purposes as well as to diplomatic representative offices, consular posts, institutions of the European Union and international organizations or their representations (to persons other than natural persons referred to in Article 47) and according to Article 31 and / or 32 of the VAT Act intends to calculate VAT on the rent and / or sale of these items, may submit application for registration as a VAT payer.

### **2.6. Is the threshold of EUR 45 000 (domestic threshold) for obligatory registration as VAT payer applied to the foreign person who started supplying goods or services in Lithuania?**

No, the threshold is not applied. The foreign person has an obligation to register as VAT payer from the start of his activities, if such a person supplies goods or services and the place of such supplies is Lithuania (excluding the supplies where the customer is obliged to account for VAT under reverse charge mechanism (see question 2.13)).

## 2.7. How is the threshold of EUR 14 000 for the acquisitions from other Member States applied?

If the foreign person, who does not need to be identified for VAT purposes under Article 71 of the Law on VAT, acquires in Lithuania goods (except the new means of transport or the goods which are subject to excise duties) from another Member State for the activities on which the input/import VAT could be deductible, the limit for the acquisition is not applied. That means that the foreign person has to register as VAT payer notwithstanding the taxable amount of the acquisition.

Only in such cases, where the foreign person, who does not need to be identified for VAT purposes under Article 71 of the Law on VAT, acquires in Lithuania goods (except the new means of transport or the goods which are subject to excise duties) from another Member State for the activities on which the input/import VAT may not be deductible, the threshold of EUR 14 000 is calculated and if the threshold is not exceeded the foreign person does not need to register as VAT payer in Lithuania.

## 2.8. How is the threshold of EUR 14 000 for the acquisitions from another Member State calculated?

For the purpose of calculation of the value of goods acquired from another Member State account shall be taken solely of the value of goods whose sellers are natural or legal persons of another Member State engaged in economic activity, registered in their own state (or otherwise identifiable), or are obligated to be registered as VAT payers according to the relevant state's legal acts, but it will not be taken into the account the amount of VAT due in another Member State and the value of:

- goods, acquired from another Member State, if those goods were acquired under the margin scheme;
- goods, acquired from another Member State, if the supply of those goods in Lithuania would be subjected to zero-rate VAT according to Articles 43, 44, 47 of the Law on VAT;
- goods, acquired from another Member State, if the supply of such goods would be exempted in Lithuania;
- goods, subject to the excise duties\*;
- new means of transport\*.

\* The foreign person does not have an obligation to register as VAT payer in Lithuania if he acquires new means of transport or goods subject to excise duties from another Member State but nevertheless such a person has an obligation to pay VAT on such goods not later than 5 working days from the delivery of such goods to Lithuania.

### 1st example

A branch of a Latvian company is engaged in economic activity in Lithuania - it provides reinsurance services. These services are exempted in Lithuania therefore there is no obligation for the company to register as VAT payer. However, in May 2018, it acquired, for its own business needs, from a Finnish company, which is a VAT payer in Finland, computer hardware for EUR 15 000. In this case the value of goods acquired during the calendar year exceeds EUR 14 000 therefore the Latvian company which has acquired the computer equipment is under obligation to register as VAT payer in Lithuania.

#### Case No. 1

If the Latvian company is registered as VAT payer in Lithuania, then it has to account for VAT in Lithuania and declare that VAT in VAT return (form FR0600).

#### Case No. 2

The Latvian company is not registered as a VAT payer in Lithuania, but having regard to the fact that this is a single computer equipment set acquired which caused the threshold being exceeded, the Latvian company is liable to pay the 21% VAT from the value of the acquired computer equipment. The Latvian company has to indicate that VAT in the VAT accounting form (form FR0608).

**2.9. When does the obligation to register as VAT payer arise for the foreign person in cases the goods and services supplied are subjected to the zero-rate VAT?**

The foreign person has to register as VAT payer in Lithuania if he:

- supplies goods which are exported from EU (Article 41 of the Law on VAT);
- supplies goods to another Member State (Article 49 of the Law on VAT);
- supplies goods which are placed in temporary storage;
- supplies goods which are placed under free zone, customs warehousing or temporary admission for processing customs procedure;
- supplies goods where the goods are transported to a tax free shop;
- supplies goods placed under the tax free shop scheme within Lithuania where this scheme is still in effect during the supply;
- supplies agency services in the transactions indicated in Article 53(1) of the Law on VAT where the agent acts in the name and on behalf of another person;
- supplies services directly related to the goods referred to in Article 53(1) subparagraphs 3, 4 and 6 (such as handling or packing of goods) and services similar by their nature;
- supplies goods with respect to which a customs warehousing procedure has been completed, where the supplied goods are imported and this provides grounds for an obligation to calculate import VAT in Lithuania.

**2.10. What kind of economical activities carried out in Lithuania by person from another Member State are considered to be distance selling?**

Distance selling is considered to be such a trade when a VAT payer from another Member State supplies goods (other than excise goods, new vehicles or goods which are delivered after their collection or installation in Lithuania) to Lithuanian persons, not VAT payers, and the goods are delivered directly from the Member State to customers in Lithuania by the supplier or on his behalf.

**2.11. When does the obligation to register as VAT payer arise for the foreign person in case of distance selling?**

The VAT payer of another Member State must register as VAT payer in Lithuania, where:

- the value of the goods (except goods subject to excise duties) supplied thereby and transported to Lithuania (excluding VAT paid in own State) during the previous calendar year exceeded EUR 35 000 or is likely to exceed the threshold during the current calendar year; or
- the supplied goods are goods subject to excise duties.

**2.12. Can the foreign person register as VAT payer in case of distance selling despite the fact that the value of relevant goods (except goods subject to excise duties) supplied by the foreign person from another Member State and transported to Lithuania during the calendar year did not exceed the threshold of EUR 35 000?**

In case the value of relevant goods (except goods subject to excise duties) supplied by foreign person from another Member State and transported to Lithuania during the calendar year was below EUR 35 000, such person can register as VAT payer voluntarily. In this case the foreign person has to produce the permit issued by competent authorities of his home state (where so provided by respective legal acts), authorizing him to regard Lithuania as place of supply.

### **2nd example**

A Estonian company sells to Lithuanian non-taxable natural persons clothing ordered from catalogues, i.e. it is engaged in distance selling. The Estonian company transports the goods to Lithuanian customers.

The total value of goods of the Estonian company supplied to the Lithuanian customers in 2018 is EUR 30 000, i.e., it does not exceed the threshold value of EUR 35 000 which entails the duty to register as VAT payer in Lithuania.

In this case where the Estonian company does not register as VAT payer voluntarily for the purpose of the distance selling (it may register by submitting to the tax administrator the permit issued by competent authority of its home state and by completing the Application form for registration as a VAT payer), the sales of the clothing will be treated as carried out in Estonia and therefore subject to Estonian VAT rules.

In case the total value of goods supplied by the Estonian company to the Lithuanian customers during the calendar year exceeds the amount of EUR 35 000, the Estonian company would be under obligation to register as VAT payer, and will be obliged to tax the sale of the clothing with Lithuanian VAT at the rate of 21%. The Estonian company will also have an obligation to submit the VAT return (form FR0600).

### **2.13. When is the customer obliged to account for VAT in relation to the goods or services supplied in Lithuania under the Article 95 (2)-(4) of the Law on VAT?**

Article 95 (2)-(4) of the Law on VAT provides for the cases where the obligation to calculate and pay VAT to the budget for the supplies of goods and services lies within the customer established in Lithuania.

Taxable persons established in Lithuania (irrespective whether they are registered as VAT payers or not) should calculate and pay VAT to the budget for services (e.g. consultants, lawyers, auditors, accountants services, telecommunication services, electronically supplied services, etc.), which are provided to him by the foreign persons who are not established in Lithuania and which are defined in Article 13(2), subparagraph 1.

Taxable persons established in Lithuania and registered there as VAT payers should also calculate and pay VAT to the budget for the following goods acquired from foreign person who is not established in Lithuania:

- gas, electric power, heating or cooling energy as specified in Article 12(6) of the Law on VAT;
- goods that are installed and assembled in Lithuania;
- goods that in the case of triangulation are transported to Lithuania for a Lithuanian VAT payer who is the purchaser of these goods.

### **2.14. Is there an obligation for foreign person to register as a VAT payer in Lithuania if he intends to trade during international exhibitions in Lithuania?**

A foreign person intending to trade during the exhibitions in Lithuania has an obligation to register as a VAT payer. Such a person can (if it is from Member State) or must (if not an EU Member State) appoint a fiscal agent, who may be the organizer of an international exhibition - a VAT payer. It should be noted that when a foreign person intends to trade during exhibitions, it is registered as a VAT payer under a simplified procedure, only certain requests specified in the Registration as a VAT payer rules should be fulfilled.

### **2.15. What happens if a foreign person does not register as a VAT payer?**

If a foreign person is obliged to register as a VAT payer, but he does not register, for all goods and / or services which are subject to VAT has to calculate VAT and pay it to budget. It should be noted that in certain cases it might be necessary to calculate VAT on goods and services purchased from other Member States as well.

### **III. THE PROCEDURE OF THE REGISTRATION AS VAT PAYER**

#### **3.1. How is the foreign person registered as VAT payer?**

Persons from the territories outside the area of the EU are registered through their branch in Lithuania, and where they do not have such branch - through the fiscal agent appointed to act in Lithuania.

The requirement to appoint a fiscal agent to act in Lithuania is not applicable to persons from Member States.

The requirement to appoint a fiscal agent also does not apply to persons from third countries and third territories where the provisions of the mutual assistance instruments are applicable, broadly equivalent to its scope of Council Directive 2010/24 / EC on mutual assistance for the recovery of claims relating to taxes, duties and other measures (hereinafter referred to as "Directive 2010/24 / EU") of March 16 2010; Council Regulation (EU) No 904/210 on administrative cooperation and combating fraud in the field of value added tax of October 7 2010.

Such persons may be registered as VAT payers directly, i.e. they personally (or their authorized representatives) may submit the Application to Register as VAT payer / cancel the registration as a VAT payer / Add / Change registered data (hereinafter - Application form FR0388).

#### **3.2. Who can act as a fiscal agent?**

The requirements for the person wishing to act as the fiscal agent are set out in the rules adopted by the Order No. 221 of 4 July 2002 of the Minister of Finance of the Republic of Lithuania.

According to this Order the person, wishing to act as fiscal agent, has to be engaged in certain activity (legal, accounting, auditing, consulting on the tax matters), has to be registered as VAT payer for the period not less than 3 years (the 3 year term is not applied in cases when the taxable person is engaged in auditing or is an attorney at law), etc.

#### **3.3. Can a foreign person be appointed as a fiscal agent?**

Only persons established in Lithuania and registered as VAT payers in Lithuania can be appointed as fiscal agents.

#### **3.4. What are the functions of an appointed fiscal agent?**

The functions are:

- To submit an application of foreign person for VAT registration to STI;
- In accordance with the procedure described in legal acts, calculate VAT on the supply of a goods and / or services provided by foreign person;
- Pay VAT to budget;
- Submit VAT returns for the STI;
- To fulfill obligations related to the issue of relevant documents.

A fiscal agent is held jointly and severally liable with a foreign person for the VAT obligations.

#### **3.5. What kind of applications the foreign person wishing to register as VAT payer has to submit?**

Foreign persons willing or obligated to be registered as VAT payers have to submit the Application to Register as VAT payer / cancel the registration as a VAT payer / Add / Change registered data (hereinafter - Application form) electronically via the e-portal My STI.

However note should be taken that foreign person willing to register as VAT payer in Lithuania prior to registering as VAT payer has also to register as taxpayer in Lithuania. In order to register as taxpayer the foreign legal person has to submit an Application of a Foreign Legal Entity for Registration / Deregistration in / from the Taxpayers' Register (form

FR0227). Foreign natural persons should submit Natural Person's Application for Registration in the Taxpayer's Register (form REG812).

The application to register as taxpayer in Lithuania can be submitted together with the Application FR0388, i.e. the foreign person does not need to wait until he is registered as taxpayer in order to submit the application to register as VAT payer.

More information about foreign persons' registration in the register of taxpayers is available [here](#).

### **3.6. Where the Application FR0388 can be found?**

The Application FR0388 can be found [here](#) (unofficial translation is available as well).

### **3.7. How the Application FR0388 should be filled in?**

The Application FR0388 has to be filled in Lithuanian language.

### **3.8. How the Application FR0388 can be submitted?**

The Application FR0388 can be submitted: electronically via the e-portal (Authorized Electronic Services Area My STI, hereinafter - My STI, if the foreign person is authorised to use it), by personal visit, by post.

### **3.9. How long does it take for the tax authority to decide whether to register foreign person as VAT payer or not?**

Tax authority has to reach the decision to register the foreign person as VAT payer or not within 3 working days from the day following the day of receipt of application or from the date of additionally submitted and/or updated data and/or documents.

### **3.10. Is the foreign person informed about the decision on his application to register as VAT payer?**

The foreign person is informed about the decision, via My STI (if the foreign person is authorised to use it) or by post.

### **3.11. Which date is the date of registration of foreign person into the register of VAT payers?**

The foreign person is considered to be registered as VAT payer from the date indicated in the tax authority's decision (form FR0618).

### **3.12. Can the foreign person registered as VAT payer in Lithuania cancel the registration of VAT?**

Foreign person can deregister from VAT payers (by submitting Application FR0388) if:

- the person discontinues economic activity in Lithuania;
- no obligation to register as VAT payer arises after deregistration (where voluntary registration was carried out due to distance selling the deregistration can take place only after 24 months after the registration);
- value of all goods supplied to Lithuania during the last calendar year did not exceed and during current calendar year do not intend to exceed EUR 35 000 in case a foreign person was registered for VAT concerning distance trade;
- ends activities due to the liquidation or reorganization.

### **3.13. Can tax authorities cancel the registration of foreign person as VAT payer ex officio?**

Tax authorities can deregister the foreign person from the register of VAT payers ex officio in the following cases:

- according to the data which is in disposition of tax authorities foreign person does not carry out economic activity and/or during last year and ongoing year there was no intra-community acquisitions;

- ends activities due to the liquidation or reorganization;
- the foreign natural person, registered as VAT payer, has died.

It is worth to note that tax authorities cannot deregister the foreign person from the register of VAT payers ex officio if the foreign person is involved in the process of producing long term fixed assets.

**3.14. Is the foreign person informed about the decision to cancel his registration as VAT payer?**

The foreign person is informed about the decision via My STI (if the foreign person is authorised to use it) or by post.