

Russian State Duma approves new right to recover input VAT on exported services

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Executive summary

On 4 April 2019, Russia's State Duma (one of the Russian Parliament's two chambers) approved, in the final reading, a bill that, among other things, would allow taxpayers to recover input Value Added Tax (VAT) on goods, works and services used in providing services outside Russia (exported services). This provision represents a major change in Russia's VAT rules.

An exception is made for services supplied outside Russia that fall within the category of VAT-exempt transactions. The recovery of input VAT would remain prohibited for this group of services.

The bill still has to pass through two further stages before it becomes law: approval by the Federation Council (Parliament's other chamber) and signature by the President.

Detailed discussion

At present, taxpayers can fully recover input VAT only on goods, works and services that are used for VATable supplies (those that are deemed to be take place in Russia and are not VAT-exempt). VAT paid on goods, works and services used for supplies falling outside the scope of Russian VAT due to the place of supply rules cannot be recovered by the taxpayer.

The bill proposes significant changes to this approach. Specifically, taxpayers would be granted the right to recover input VAT on goods, works and services used in the provision of services that are not deemed to be supplied in Russia based on the applicable place of supply rules. There are no restrictions relating to the business sector or location of the purchasers of exported services.

The new regime for exported services would not, however, extend to services classed as VAT-exempt supplies. The exhaustive list of VAT-exempt services contained in the tax legislation includes, inter alia, the provision of exclusive rights in or rights to use software and databases under license agreements, the supply of certain financial and banking services and a number of other services.

The new rules would also affect taxpayers that carry on both VATable and non-VATable (including VAT-exempt) activities and allocate input VAT according to the proportion of income generated by each type of activity. Specifically, to calculate recoverable input VAT, taxpayers would have to treat exported services, other than those classified as VAT-exempt, as VATable supplies and take them into account accordingly in calculating the applicable proportion.

If the draft law is passed, the new rules will come into force one month after the official publication date of the law, but not earlier than the first day of the next tax period. In other words, the new rules could take effect as early as the third quarter of 2019. The draft law as it stands does not contain any transitional rules and does not provide for the new rules to be applied retroactively.

Implications

The new rules affect taxpayers that export services, affording opportunities to reduce the VAT burden attached to such services. Since input VAT will continue to be irrecoverable for certain exported services, the correct classification of services will have a major influence on the amount of recoverable input VAT as well as on the level of risk associated with reclaiming VAT.

For additional information with respect to this Alert, please contact the following:

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