

## FRANCE

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### Name of the firm

LA REPRESENTATION FISCALE

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## AT A GLANCE

Name of the tax

Value Added Tax

Local name

Taxe sur la valeur ajoutée (TVA)

Date introduced

10 April 1954

Date of membership in EU

1 January 1958

Administered by

Ministry of Finance ([www.impots.gouv.fr](http://www.impots.gouv.fr))

### VAT rates

Standard

20 %

Reduced

2.10 %, 5,5 % and 10%

Other

Exempt with and without credit

VAT Number format

FR00 632 009 122

VAT return periods

- monthly,

- quarterly, if the annual VAT amount to be paid is less than €4 000,

- seasonally (there must be a break of at least 3 months),

- occasionally (no needs to issue "nil" VAT returns when there is nothing to declare)

Thresholds registration

None for businesses based outside France

Recovery of VAT by non-established businesses Yes

## **HISTORY OF VAT**

France introduced VAT on 10 April 1954 to replace the tax on production. Initially directed at large businesses, it was extended over time to include all business sectors in 1968 and was then adopted by the European Community - and by other states located outside the EC. In France, it is the most important source of state finance, accounting for more than 50% of state revenues.

## **SCOPE OF VAT**

Supplies of goods and services by a taxable person are in principle liable to French VAT when they are deemed to take place in France according to VAT rules governing the place of supply for VAT purpose.

VAT is assessed on the value of goods or services supplied every time there is a transaction (sale/purchase). The seller charges VAT to the buyer, and the seller pays this VAT to the government. To the extent that he is not an end user, the purchaser is normally entitled to deduct the VAT paid on its purchases of goods and services and offset it against the tax due on his turnover. The tax authorities only receive the balance of VAT payable, i.e. the paid tax on the [gross margin](#) of each transaction, by each taxpayer in the sales chain.

## **REGISTRATION**

Businesses based outside France are required to register for French VAT purpose when they are carrying out transactions for which they are responsible for the payment of French VAT, if any, even if they only carry out zero rated supplies. Alternatively, they are not entitled to register for VAT if they only carry out supplies for which the French VAT is due on a reverse charge basis by their client registered for VAT purpose in France.

We set out below a list of transactions for which there is a registration requirement:

- Supplies/transfers of goods shipped from France to other EU member States (intra-Community supplies) or to non-EU countries (exports),
- Supplies of goods to foreign companies not registered for VAT purpose in France, with delivery of the goods on the French territory,
- Distance selling to private individuals in France (over the annual threshold of EUR 100 000),
- Works made on a real estate located in France and belonging to individual persons, Short term rentals in France of means of transport (less than 1 month or 3 months for boats) and long term rentals in France of pleasure boat when the customer is a private individual,
- Trade fairs taking place in France (ticketing and stand invoiced to foreign exhibitors in some cases),
- Trainings and seminars taking place in France and open to the public,
- Passengers transport in France.

- Receipt of services taxable in France when one of the parties is not registered for VAT purpose in France.

Businesses established outside the European Union - with the exception of the countries which have concluded a mutual assistance agreement with France (Argentina, Australia, Azerbaijan, Georgia, India, Island, Mexico, Moldavia, Norway, Korean Republic and Saint Barthelemy) – are required to register via a tax representative based in France. Both the tax representative and the supplier based outside France are jointly and severally liable for the payment of the French VAT due, interest for late payment and penalties, if any.

If the supplier fails to appoint a tax representative, his customer is liable for the tax, interest and penalties. French law also makes the supplier jointly liable for the tax due on an intra-Community acquisition, but only if the acquirer is not established in France. This joint liability does not cover interest and penalties.

Alternatively, businesses established in the countries listed here above and in the European Union can register directly with the French authorities and/or may wish to appoint a VAT agent to represent them towards the French tax authorities (no joint liability to towards the tax authorities).

In principle, VAT registration cannot have any retroactive effect. However, the tax authorities may allow retrospective registration, in duly substantiated cases, if the supplier shows its intention to correct his position and the representative expressly undertakes to represent that taxable person as of the beginning of the period to be corrected.

Businesses based outside France can be relieve of the obligation to register for VAT purpose and act via a simplified VAT representative when their transactions taking place in France are exclusively:

- exempt imports of goods directly followed by an exempt intra-Community supply of these goods, or
- exports or exempt intra-Community supplies of goods coming out of a warehousing arrangement.

The simplified representative's responsibility is then limited only to the transactions for which he has been appointed.

Group registration is not allowed.

The French VAT number has 13 characters (FR + 2 control digits + the SIREN number). The SIREN number is allocated to the company when it registers with the Commercial Register.

## **VAT RATES**

The following VAT rates apply in mainland France:

- 2,10 % applies to sales of pharmaceuticals when they are reimbursed by the social security and sales of Newspapers and certain magazines, ...
- 5,5 % food, beverages without alcohol, books, services to old people and handicapped persons, supply of works of art by their authors, ...

10 % home services (cleaning, childcare, home courses...), sales for immediate consumption (restaurants, beverages without alcohol...), works and repairs on residential buildings built from more than 2 years, sights, passengers transport, pharmaceuticals which are not reimbursed by the social security, bio-fertilizers...

20 % others

Other VAT rates apply in overseas territories and Corsica.

## **PLACE OF SUPPLY RULES**

### **Place of supply of goods:**

With respect to supplies of goods, the place of taxation is in principle determined by the place where the goods are at the time the customer is able to take possession of them. This not only depends on the nature of the goods supplied, but also on how the supply is made (delivery conditions). The table below set out the rules governing the place of supplies of goods as far as France is concerned:

<b>Generally</b> in the case of a supply of goods:	<b>The place of supply is:</b>
(a) Without transport	where the goods are placed at the disposal of the person acquiring the goods
(b) With transport	where the goods are when the transport begins
(c) when transport begins outside the EU and ends in a Member state	the member State of importation
<b>Exceptions to the rule:</b>	
(1) Goods installed or assembled by or on behalf of the supplier	Where goods are installed or assembled
(2) Goods supplied on board ships, aircraft or trains during part of a transport of passengers effected in the EU	The point of departure of the transport of passengers
(3) Distance sales to individuals or non-taxable persons	Generally the member State where the transport ends however subject to not exceeding the annual threshold and as long as the transaction does not concerns excise goods or new means of transport, the place of supply would be the place where the transport begins. In France the annual threshold is € 100,000.

<p>(4) Supply of gas through a natural gas system within the EU (or any network connected to such system), of electricity and of heat or cooling energy through heating or cooling networks:</p> <p>(a) supply to a <b>taxable dealer</b> meaning that his principal activity is reselling gas, electricity, heat or cooling energy and his own consumption of such goods is negligible</p> <p>(b) supplies not covered by (a)</p>	<p>Where the taxable dealer is established/has a fixed establishment / in the absence of such, the place where he has a permanent address or usually resides</p> <p>Where the customer effectively uses and consumes the goods <b>however</b> should all or part of the supply not be consumed by the customer the place of supply of such goods is deemed to be where the customer is established/ has a fixed establishment / in the absence of such, the place where he has a permanent address or usually resides</p>
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**Place of supply of services:**

On 1 January 2010, new rules were introduced to ensure that VAT on services will better accrue to the country of consumption. The place of taxation is determined by where the services are supplied. This depends not only on the nature of the service supplied but also on the status of the customer receiving the service. A distinction must be made between a taxable person acting as such (an entrepreneur) and a non-taxable person (e.g. a public body or a private individual who is the final consumer).

It is necessary to identify the exact nature of services and the status of the customer in order to assess the place of taxation for VAT purpose. The supply of services between businesses (B2B services) is in principle taxed at the customer's place of establishment, while services supplied to private individuals (B2C services) are in principle taxable at the supplier's place of establishment, subject to specific rules.

The table below set out the rules governing the place of services as far as France is concerned:

<b>Generally (*):</b>	<b>The place of supply of the service is:</b>
(1) Business to business (taxable persons) supplies	Where the customer is established
(i) If services are provided to fixed establishment of the customer located in a place other than that where his business is established	The place where the fixed establishment is located
(ii) In the absence of a fixed establishment	The place where the recipient has his permanent address / usually resides

(2) Business to customer (non-taxable persons) supplies	Where the supplier is established
(i) If services is provided from a fixed establishment of the supplier located in a place other than that where his business is established	The place where the fixed establishment is located
(ii) In the absence of a fixed establishment	The place where the supplier has his permanent address / usually resides
<b>Exceptions:</b>	
<b>Intermediaries</b> acting on behalf of a third party rendering a service to a non-taxable person	The place where the underlying transaction takes place
<b>Services connected to immovable property</b>	Where the property is located
<b>Passenger transport</b>	Where transport takes place in proportion to the distance covered
<b>Transport of goods to non-taxable persons</b> other than intra-Community transport of goods.	Where transport takes place in proportion to the distance covered
<b>Intra-Community transport of goods to non-taxable persons</b>	Where the transport of goods begins
<b>Restaurant and catering services</b>	Where the services are physically carried out
<b>Admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events</b>	Where the events took place
<b>Services and ancillary services, relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities</b> supplied to a non-taxable person	Where those activities take place
<b>Ancillary transport activities</b> supplied to non-taxable services	Where the services are physically carried out
<b>Valuations of and work on movable tangible property</b> supplied to non-taxable persons	Where the services are physically carried out
<b>Short-term (vessels &lt;90 days; other &lt;30 days) hiring of a means of transport*</b>	Where the means of transport has been placed at the disposal of the customer
<b>Hiring, other than short-term hiring, of a means of transport to a non-taxable person*</b>	Where the customer is established, has his permanent address or usually resides
<b>In the case of a pleasure boat*</b>	Where the pleasure boat is placed at the disposal of the customer, where this service is actually provided by the supplier from his place of business or a fixed establishment situated in that place
<b>Supply of restaurant and catering services for consumption on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community (ie without a stopover outside the EU)</b>	The point of departure of departure of the transport operation. Return trips are treated as separate journeys.
<b>Electronically supplied services, broadcasting and telecommunications services supplied to</b>	Where the person is established, resides or has his permanent address

<b>a non-taxable person*</b>	
<b>Services supplied to non-taxable persons resident outside the EU*:</b>	Where the customer is established
Transfers / assignments of copyrights, patents, licences, trade marks	
Advertising services	
Services of consultants, engineers, consultancy firms, lawyers, accountants and similar services, data processing, provision of information	
Obligations to refrain from a business activity or a right	
Banking, financial, insurance, reinsurance excluding the hire of safes	
Supply of staff	
Hiring out of movable tangible property except for means of transport	
Provision of access to a natural gas system, or any network connected to such system, situated within the EU, or to an electricity system or to heating or cooling networks or transmission or distribution through these systems or networks and the provision of other directly linked services	

(\*) \_\_\_\_\_ The effective use and enjoyment of these services may be considered as the basis for determining the place of supply in order to prevent double taxation, non-taxation or distortion of competition. In so doing, France may be deemed to be the place of supply of the services in question when services the place of supply of which is outside the EU are effectively used and enjoyed in France. Conversely, services deemed to take place in France are considered as rendered outside the EU if their use and enjoyment are outside the Community.

#### Place of intra-community acquisitions

	<b>The place of acquisition is:</b>
General rule for intra-community acquisitions	Where the goods are when the transport of the goods to the person acquiring them ends
If acquisition is made using a French VAT number (valid under VIES)	France
If acquisition is made using a French VAT number (valid under VIES) and the below conditions apply:  (1) The acquisition is made for a subsequent supply of such goods in that Member State; (2) The subsequent supply is made to a VAT-identified person in the Member State of destination; (3) The person to whom the subsequent	The Member State where the transport of the goods ends

<p>supply is made is the person liable to settle the VAT on such supply;</p> <p>(4) The person registered in France reports the supply in the recapitulative statement</p>	
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### Place of imports

When goods are imported, the place of such importation is the place where the goods are at the time of the chargeable event, i.e. the EU Member State in which the goods are released into free circulation.

### TIME OF SUPPLY RULES

The time of supply of goods and services refers to the date the chargeable event takes place, the date of payment and the invoice date.

The following table set out the rules for determining the date of the chargeable event:

<b>Goods:</b>	<b>Date of chargeable event:</b>
(1) Goods – general rule	When the goods are delivered
(2) Continuous supplies of goods giving rise to successive statements of account or payments, up to the value covered by those statements	On the last day of each period to which such statements or payments refer, or at the time of invoice upon option, or at the time of payment if it is made earlier
(3) Goods delivered under: <ul style="list-style-type: none"> <li>• hire-purchase</li> <li>• lease</li> </ul>	<p>When the goods are delivered (although title to the good is transferred at the end of the lease)</p> <p>At the time the lessee exercises the purchase option</p>
<b>Services:</b>	
(1) Services – general rule	When the services are performed
(2) Continuous supplies of services giving rise to successive statements of account or payments, up to the value covered by those statements	On the last day of each period to which such statements or payments refer
(3) Continuous supplies of services over a period exceeding one year and not giving rise to statements or payments, made by a person not established to a taxable person or a non-taxable legal person identified for VAT purposes in France	At the end of each calendar year

<b>Intra-Community acquisitions</b>	The date of the chargeable event that would apply should those goods have been supplied in the member state of those acquisition
<b>Importations</b>	
- When goods are placed under customs duty suspension regime	When the goods are no longer subject to the regime
- When goods are subject to customs duties, agricultural levies, charges having equivalent effect established under common policy	The date the chargeable event for the taxation of such duties takes place

### **Date when the tax becomes chargeable**

Except in the case of exempt intra-Community supplies of goods, the tax on supplies becomes chargeable as follows:

- 1) for supplies of goods other than continuous supplies, the date of the chargeable event;
- 2) for continuous supplies of goods, the earlier of the date of the chargeable event or the date of payment for the supply in proportion to the payment effected;
- 3) for supplies of services, the date on which the payment is received, unless the supplier has been authorized to pay the VAT accounted for on an accrual basis ("régime des débits"). Under this arrangement, the VAT is chargeable when the tax is invoiced to the client. The supplier's invoice must be issued at the time the service is completed. However, when the payment on account is made before the service is performed, the VAT always becomes chargeable upon receipt of payment and on the amount received, whether or not the supplier exercised the option.

In the case of exempt intra-Community supplies of goods however the tax is chargeable on the earlier of:

- (1) the 15<sup>th</sup> of the month following that in which the chargeable event takes place;
- (2) the invoice date for such supply

The date when tax becomes chargeable on an intra-Community acquisition is the earlier of

- (1) the 15<sup>th</sup> of the month following that in which the chargeable event takes place;
- (2) the date on which the invoice is issued to the person acquiring the goods.

In the case of importations, tax becomes chargeable on the same date as the chargeable event as determined in the table above.

### **EXEMPTIONS**

VAT exemptions fall under three categories namely "exempt with credit" (or "zero rated"), i.e.:

- (i) exempt but eligible for VAT deduction as regard the input VAT on expenses assigned to such supplies,
- (ii) "exempt without credit" where the supplier is not entitled to recover input VAT incurred on related expenses, and
- (iii) "taxable upon option", where the supplier is entitled to recover input VAT only if it elects for the taxation of its transactions.

The list herein below set out some transactions that are VAT exempt with credit:

- Exportations of goods shipped from France to a non-EU country by or on behalf of the supplier or the customer established outside France,
- Intra-Community supplies of goods shipped from France by or on behalf of the supplier or the customer,
- international transports of goods and persons,

The list herein below set out some transactions that are VAT exempt without credit:

- health and welfare services including medical or surgical treatment, nurseries,
- education,
- some banking and financial transactions (but taxable upon option), transactions on investment gold, insurance and re-insurance,
- some property rentals (some of them being taxable upon option), some furnished rentals, sales of some buildings and grounds,
- gaming and betting,
- certain services supplied by non-for-profit organizations to their members, such as certain trade union or philanthropic organizations
- sports meetings organized by non-for-profit organizations,
- public postal service and stamps...

## **RECOVERY OF INPUT VAT**

### **Deduction and recovery of input tax**

#### **Input tax eligible for a deduction/credit**

A taxable person can deduct VAT invoiced to him on the value of good or services acquired insofar as these goods or services are used for the needs of his taxable or exempt with credit supplies.

VAT deductions are made by offsetting amounts collected against the tax due by the persons liable for payment of the tax for the month during which the right to deduct came into being, and until the end of the second following calendar year (N + 2). The balance of deductible VAT is refunded upon request according to the terms and conditions specified for this.

The following list set out some expenses that are not eligible for French VAT recovery:

- Accommodation expenses incurred on behalf of the management or staff of the undertaking. VAT is recoverable when these expenses are incurred for the benefit of clients or suppliers, or

when the business supplies the same services for consideration. Meals and entertainment expenses are eligible for VAT recovery when they are incurred for business purposes.

- Business gifts exceeding EUR 65 inclusive of VAT, per beneficiary per year;
- Supply, import, leasing, repair and maintenance of most cars for passenger transport and other related costs such as petrol are denied refund (with the exception of diesel where VAT deduction is allowed up to 80% when the diesel is used for cars not entitled to VAT recovery). However, VAT is fully recoverable when the cars are purchased by a car dealer for resale or by a person who hires out. All services relating to goods which are themselves ineligible for the right to deduct VAT (e.g. cars) are also excluded; and
- Domestic transport of passengers and related expenses (except for public transport supplies and transport from home to work - subject to conditions).

### **Deduction rules relating to the provision of mixed supplies (partial attribution)**

In general, input VAT can be offset against output VAT to the extent it is attributable to supplies, eligible for VAT recovery, meaning supplies that are:

- Taxable;
- Exempt with credit;
- Outside France and would, if made in France, be treated as taxable or exempt with credit; or
- Certain exempt financial services supplied to persons established outside of the Community, or related to exports

When, in the framework of its economic activity, a taxable person conducts simultaneously taxable transactions and exempt transactions which do not give right to deduct VAT or transactions which are outside the scope of VAT, it will be necessary to establish the proportion of deductible VAT which have to be computed on expenses as a function of assignment of these expenses. Determination of the extension of the right to deduct VAT will possibly have to be performed in the framework of separate sectors of activity.

In this respect, it will be necessary to distinguish successively:

- transactions within and outside the scope of VAT, and
- transactions within the scope of VAT, eligible or not for VAT recovery.

The extension of the right to deduct VAT as a function of assignment of expenses can be evaluated as follows:

- (A) transactions within and outside the scope of VAT:
  - (a) expenses assigned specifically to transactions which are outside the scope of VAT : VAT is not deductible.
  - (b) expenses assigned specifically to transactions within the scope of VAT : VAT is deductible according to terms and conditions herein below (B).

- (c) expenses assigned simultaneously to transactions within and outside the scope of VAT : VAT is proportionally deductible on the basis of adequate physical allocation criteria with respect to the type of expense.
- (B) transactions within the scope of VAT, eligible or not for VAT recovery (only concerns expenses referred to in (b) here above).
  - (a) expenses assigned specifically to exempt transactions : VAT is not deductible.
  - (b) expenses assigned specifically to taxable transactions : VAT is fully deductible.
  - (c) expenses assigned simultaneously to taxable and exempt transactions : VAT is proportionally deductible, pursuant to the general pro rata rule based on turnover.

### **Deduction adjustment on fixed assets**

Capital goods are all tangible fixed assets which can be used on a long-term basis (i.e. > 1 year) as working tools or other means used for the carrying on of an economic activity, but does not include small equipment, working tools and office furniture, with a price, or open market value, that does not exceed € 500, or reusable packaging materials.

A taxable person is entitled to deduct immediately any input tax suffered on acquisition of capital goods, subject to the rules mentioned above regarding supplies only partially attributable to economic activities and supplies eligible for VAT recovery.

Special adjustment rules for capital goods apply where a change in the use of an asset occurs, thereby effecting a change in the deductible portion of input VAT (e.g. in case of termination of activities or ceasing transactions giving right to deduct VAT).

The period over which an adjustment for input VAT should be made is:

- 5 years for all capital goods with the exception of immovable property, and
- 20 years in the case of immovable property.

The adjustment is made up to 1/20th or 1/5th of the input tax initially deducted (with respect to immovable property or other capital goods, respectively), for each year during which a change in the use occurs.

The taxpayer must maintain a list of goods subject to the capital goods scheme showing the adjustments made over time.

### **Separate business sectors**

As a general rule, taxable persons must keep separate books of their transactions when both following conditions are met:

- The activities are differentiated given a combination of criteria (the economic nature specific to each activity, use of various means of business operating, separate bookkeeping, etc.).
- The activities are subject to different VAT application of provisions.

When a taxable person conducts transactions in separate sectors of activity, the rules for deduction of VAT apply sector by sector. The same taxable person can therefore have to follow several different pro rata of deductions for example a pro rata for each sector and a joint pro rata for all of the sectors of activity combined

The right to deduct VAT arises when the deductible tax becomes claimable at the level of persons liable for payment, i.e. in principle at the time of the supply of goods, or of the payment of the price of services.

### **Recovery of VAT for companies which are not VAT registered in France**

#### **a) Taxable persons not established in the EU Member State of Refund but established in another EU Member State**

A taxable person not registered for VAT in the Member State of VAT refund but established in another Member State can apply for the VAT refund according to the 8<sup>th</sup> Directive conditions via the website of the tax administration of the Member State where he is established.

The application for refund is submitted to the Member state of establishment by the 30<sup>th</sup> September of the calendar year following the refund period at the latest. The applicant is immediately informed, by electronic means, of the date on which the application is received by the local tax authorities. The tax authorities will notify the applicant of the decision to approve or refuse the refund application within 4 months from the date of receipt.

#### **b) Taxable persons not registered in the territory of the EU Community**

A taxable person not registered for VAT in the Member State of VAT refund but established outside the European Union Member State can apply for the VAT refund according to the 13<sup>th</sup> Directive conditions, by appointing a tax representative. The claim shall be submitted to the tax authorities in France, within 6 months from the end of the calendar year in which the tax became chargeable.

Decisions concerning applications for refund shall be given within 6 months from the date when the applications, accompanied by all the necessary documents required, are received by the French tax authorities.

## **COMPLIANCE OBLIGATIONS**

### **Invoicing requirements**

Every taxable person is required to issue an invoice in respect of goods and services supplied or rendered to another taxable person or to a non-taxable legal person, regardless of the format (paper or electronic

invoice). The same goes for some supplies of goods or services to private individuals (e.g. distance selling, real estate works, etc.).

For an invoice to be valid, it must contain all the particulars listed herein below:

- The date of issue;
- A sequential number to uniquely identify the invoice;
- The name, address and VAT identification number of the supplier;
- The name, address and VAT identification number (if applicable) of the person to whom the supply is made;
- The quantity and nature of goods supplied or a description of the services rendered;
- The date on which the supply was made or completed or the date on which a payment on account was made;
- The unit price exclusive of VAT, discounts or rebates and the currency used;
- The applicable VAT rate;
- The VAT amount payable expressed in EUR. Amounts which appear on the invoice may be expressed in any currency, provided that the tax payable or to be adjusted, must be converted into Euro using the latest exchange rates published by the European Central Bank.
- Where the customer is issuing an invoice to itself, it is advisable to include the words "Self-billing";
- Where the customer is liable to pay VAT, the invoice should include "Reverse Charge"; and
- Where the invoice refers to supplies on which tax is not chargeable, it should indicate a brief reference to the reason why the tax is not chargeable.
- Additional information must be provided if the taxpayer applies a special scheme such as a margin scheme, or if the invoice is for the intra-Community supply of a "New Means of Transport".
- For resident suppliers: amount of share capital, the legal form of the company and interest rate for late payment.

A simplified VAT invoice is permitted if the amount of the invoice inclusive of the tax is not higher than €150.

Suppliers can issue electronic invoices subject to acceptance by the recipient.

Authenticity of origin, integrity of content and readability of the invoice must be guaranteed from the time of issue until the end of the storage period. Documented and permanent controls have to be put in place in order to establish a « reliable audit trail » between the invoice issued or received and the supply of goods or services. Such obligations apply to paper invoices and to e-invoices when they do not comply with EDI recommendations or when they are not secured on the basis of an advanced electronic signature.

These controls are defined as the process created, monitored and updated to provide reasonable level of assurance regarding the identity of the supplier or the issuer of the invoice (authenticity of the origin), to ensure that the information on VAT were not changed (integrity of content), and to ensure the legibility of the invoice from the time of issue until the end of the retention period. Controls should be presented in a documentation to trace, for a given operation, all steps of sequentially and chronologically billing process since the event which is at the origin to the invoice issued or received, and attest to the reality and effectiveness of controls.

Purchase invoices must be kept in their original format for six years. However, for commercial purposes, all records must be kept on disk or paper for a ten-year period.

## **Returns**

### **Timing for filing and payment**

VAT returns have to be filed monthly, unless the yearly amount of VAT due is less than € 4,000, in which case returns have to be filed quarterly. The balance of VAT payable must be settled when the VAT return is filed.

Subject to certain conditions, small undertakings may be taxed, under a simplified arrangement, when their yearly turnover is lower than specific thresholds. VAT is then paid to account on a quarterly basis and ultimately accounted for in a yearly VAT return.

The deadline for submission is set between the 15th and 24th of the month following the reporting period. The exact filing date is legally determined on the basis of the VAT registration number of the business.

### **Electronic filing**

Filing of VAT returns, payments and requests for reimbursement of VAT credits must be made online.

This obligation also applies to companies based outside France that fall within the competence of the tax office for foreign tax payers ('DRESG').

This requirement is normally sanctioned by a penalty of 0.2% of the tax payable unless another penalty is applied for late reporting and / or payment.

### **Retention and access of books and records**

Records must be kept for 6 years from the year following the closure of the books or the date of the other documents. However, for commercial purposes, all records must be kept on disk or paper for a 10-year period.

Accounting documents recorded electronically must be stored as such for three years, and afterwards on a medium of the company's choice for another three years. Purchase invoices must be kept in their original format for six years.

The storage period applies to the books and documents that should be kept according to French tax law, e.g. purchase and sales ledgers, daily receipts register, registers, contracts, purchase orders, dispatch documents, bank statements, payment documents, together with other books and documents concerning the taxable activity (copies of correspondence, etc).

The accounts can be kept outside France provided that they are immediately available in France. The French tax authorities consider the place where the accounts are kept as a company management matter. The accounts only have to be presented in France (even in a computerized form) for tax audit purposes.

The legal conditions on auditing computerized accounts are: (i) processing by the inspector on the company's equipment, (ii) processing by the company on its own equipment under the inspector's supervision, (iii) processing by the inspector outside the company's premises.

If a company uses a computer system located outside of France, without having an active terminal, the first two methods of control referred to above, are impossible - neither an officer from the tax authorities, nor the company may process the data. However, the third method continues to be valid. In this respect the documents and the computer data must be given to the authorities.

In an audit a competent person having the necessary access rights needs to be present.

The documentation may be prepared in English if the use of this language does not affect the audit.

Since January 2014, French companies that keep their accounts using IT systems are required to provide the tax authorities with a file of accounting entries ('Fichier des Ecritures Comptables' or 'FEC') for the purpose of tax audit. This obligation also concerns businesses based outside France to the extent that they are registered for VAT purpose and carry out transactions for which they need to file VAT returns in France.

The file of accounting entries is a single electronic file that lists in chronological order all accounting data and entries traced in all ledgers for a given financial year, according to specific standards. The implementation of this file is an offshoot of SAFT- T (Standard Audit File for Tax), which is a recommendation of the OECD. The latter includes 62 areas and covers a wide scope of areas of the business (accounting, purchasing, sales, management control, inventory, fixed assets).

This electronic file must be available and be provided at once at the time of tax audit, for each of the last 3 financial years (e.g. 2012, 2013, and 2014 if the tax audit takes place in 2015).

The authorities may perform simple operations on the file, namely sorting, filing and all calculations (sum, multiplication, etc.) that allow them to ensure consistency of accounting documents with the tax returns filed by the taxpayer.

The FEC should notably include items needed to identify the VAT treatment applicable to purchases and sales of goods and services.

### **Interest for late payment and penalties**

Penalties in relation to late filing and/or late payment of the French VAT due are as follows:

- Late submission of VAT return: 10 % of the tax due as long as the French VAT authorities have not issued a formal notice;
- Late payment of VAT due when VAT return is filed timely: 5 % of the tax due;
- First formal notice of late submission: 40 % of the tax due for failing to file the return within 30 days from the date of formal notice;
- Failing to file VAT returns by electronic means : 0,2 % of the VAT due (irrespective of filing of paper return in due time, if any);
- Failing to pay VAT by electronic means: 0,2 % of the VAT due (even in case of payment in due

time).

Interest for late payment accrues at a rate of 0.4 % per month in addition to penalties.

## SPECIAL CASES

Ad hoc rules apply to businesses benefitting from the small undertakings scheme, farmers subject to the flat-rate scheme, travel agents and tour operators second hand goods, works of art collectors' items and antiques and investment gold amongst others.

## EU DECLARATIONS

In principle, all individuals or legal entities that deliver (dispatch) or acquire (introduce) goods to or from a Member State should provide statistics (Intrastat) and tax information to the French tax authorities by way of a "Déclaration d'échanges de biens entre les Etats membres".

The content of this declaration of exchange of goods varies, depending on the level of the operator's declaratory obligation. There are four obligation levels, determined on the basis of thresholds that refer to the amount of goods introduced and/or dispatched by the operator during the preceding calendar year. Operators are relieved of the obligation to establish a declaration for introduced goods if their value does not exceed a yearly threshold of € 460.000.

For information, the following data are required in the detailed report for level 1 (introductions/dispatches amounting to more than for each consignment either dispatched or acquired):

- Number of the line
- Commodity code of the goods (i.e. the 8-digit code number indicated in the Intrastat nomenclature)
- Member State of departure of the goods dispatched to France or Member State of destination of the goods dispatched from France
- Invoice value in French francs or EURs (only for declarations filed in electronic form)
- Code regime
- Statistic value
- Net mass of the goods
- Supplementary unit if used (e.g. number of items, number of m2, m3, pairs, dozens)
- Nature of transaction (e.g. purchase/sale, returning of goods, supply free of charge, acquisition/supply with a view to processing, repair, or maintenance, acquisition/supply after processing, repair or maintenance)
- Terms of delivery
- Mode of transport by which the goods are presumed to have left or entered France
- Department
- Country of origin (for receipts only)
- VAT number of the acquirer (for intra-Community supplies from France only)

With respect to triangular transactions, declaration of exchanges of goods (IC sales listing/Intrastat form) to be filed by the middleman VAT registered in France must specify the following information:

- VAT number of the customer of the subsequent supply in the other Member State;

- Taxable value;
- Code regime: 31.

This document must be submitted on a monthly basis. The filing date is 10 working days following the month during which the VAT became chargeable (for intra-Community supplies and acquisitions) or the month during which the transfer of goods occurred (in other circumstances e.g. contract work, repairs).

The penalty for late filing is € 750, or possibly € 1,500 if the report is not filed within 30 days after the French customs authorities issued a formal notice. Omissions or inaccuracies on Intrastat return are sanctioned by a € 15 fine per missing/wrong data with a maximum of € 1,500 per Intrastat return. A € 1,500 may also apply if a taxable person refuses to provide information or documents to the French customs authorities.

A similar declaration also exists for supplies of services by French based businesses to EU businesses, where such services are liable to VAT in the EU member State where the recipient belongs.