

BELGIUM

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AT A GLANCE

Name of the tax	Value Added Tax
Local name	Taxe sur la Valeur Ajoutée (TVA) or Belasting over de Toegevoegde Waarde (BTW)
Date introduced	1 January 1971
Date of membership in EU	27 May 1952
Administered by	FOD Finance
<u>VAT rates</u>	
Standard	21%
Reduced	12%-6%
Other	Zero-rated, exempt and exempt with credit
VAT Number format	BE 9999999999
VAT return periods	Monthly for all VAT-registered persons but quarterly for those whose total annual turnover (VAT exclusive) does not exceed EUR2,500,000 (EUR250,000 for specific business sector) and whose quarterly intra-EU supplies do not exceed EUR50,000

Thresholds registration	none
Recovery of VAT by non-established Businesses	YES

HISTORY OF VAT

The VAT system in Belgium has been implemented in 1971 and evaluated till now to be the system it currently is. General rules and regulations applicable only in certain circumstances or in specific situation are developed in the Belgian VAT Code, the Royal Decree, the administrative circulars and all other kind of official documents being the base of the Belgian VAT legislation.

SCOPE OF VAT

Belgian VAT legislation applies to the following 4 transactions:

- The supply of goods (local, intra community or export) ;
- The supply of services made/located for VAT purposes in Belgium;
- The intra-Community acquisition of goods from another Member State by a taxable person
- The importation of goods from outside the EU, regardless of the status of the importer

REGISTRATION

Any taxable person performing taxable transactions (as listed above) or falling under the scope of the distance sales legislation, is liable for a VAT Registration in Belgium. Referring to the Administrative Circular 4/2003, special registration rules apply to foreign or “non-established businesses.” A non-established business performing supplies of goods or services in Belgium must register for VAT purposes in one or more of the following situations:

- Taxable transactions in Belgium for which it is liable to pay the Belgian VAT due
- Intra-Community acquisitions of goods in Belgium
- Intra-Community supplies of goods from Belgium
- Imports of goods, followed by the supply of the same goods
- Certain transactions in connection with a VAT warehouse

Application for the VAT registration (directly, via mandate or via appointment of a fiscal representative) is described in the above Administrative Circular.

Effective from 1 April 2007, VAT grouping is permitted under the Belgian VAT law. VAT grouping is an option for Belgian businesses and Belgian branch offices of foreign businesses. The option to create a VAT group is subject to various conditions. Businesses must be financially, economically and organizationally linked with each other in order to form a VAT group. Basically, transactions within a VAT group are disregarded for VAT purposes. However, in certain cases, these intragroup transactions may still be subject to VAT.

VAT RATES

0 %: newspapers and tobacco

12% : restaurant services for example

6% : books and magazines for instance

21 %: others

PLACE OF SUPPLY RULES

The supply of goods is **taxed** at the place:

- where the goods are **located** at the time the supply takes place, if they are **not dispatched or transported** [Article 31 of the VAT Directive]
- where the goods are **located** when the **dispatch or transport** to the customer **begins**, if they are **dispatched or transported** by the supplier, by the customer, or by a third person [Article 32 of the VAT Directive].
- where the goods are being **installed or assembled**, if done by the supplier [Article 36 of the VAT Directive]

The place of taxation for supply of services 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** (a business acting in its business capacity) and a **non-taxable person** (a private individual who is the final consumer).

- 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 taxed at the **supplier's place of establishment**.

TIME OF SUPPLY RULES

In Belgium, different time-of-supply rules apply to goods and services.

The time of supply for goods is one of the following:

- When the goods are put at the disposal of the buyer
- If the goods are shipped by the supplier, when the goods arrive at the buyer's premises
- If the supplier needs to install the goods, when the installation is completed

The time of supply is set at an earlier date if a payment is received before the goods are put at the buyer's disposal and the supply is clearly described.

The time of supply for services is when the service is completed. The time of supply is set at an earlier date if a payment is received before the service is finished. This service must be clearly described.

EXEMPTIONS

VAT free supplies are exports and intra-community deliveries to VAT registered companies in EU Member States other than Belgium. Conditions foreseen in article 39 and 39bis of the Belgian VAT Code need to be fulfilled in order to apply for this exemption.

RECOVERY OF INPUT VAT

In principle, every VAT-taxable person has the right to deduct the Belgian input VAT incurred. The right to recover input VAT depends mainly on the purpose for which the goods or services are purchased.

The goods or services bought must be used for taxable business purposes. VAT incurred on goods or services bought for private purposes cannot be recovered. In addition, input VAT cannot be recovered on purchases that are used to make exempt supplies (without credit for input tax). Where goods or services are bought for both business and private or exempt purposes, the input VAT can only be recovered to the extent that the goods or services are used for business purposes or taxable activities (calculated on a pro-rata basis).

In this respect it is key to hold a valid tax invoice or customs document. Exceptions apply to supplies for which the recipient is liable for the VAT due (reverse charge). Belgian input VAT can only be deducted at the end of the third calendar year following the year in which the VAT became due.

Nondeductible input tax. Input tax may not be recovered on purchases of goods and services that are not used for business purposes (for example, goods acquired for private use by an

entrepreneur). In addition, input tax may not be recovered for some items of business expenditure.

The following lists provide some examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible if the expenditure is related to a taxable business use.

Belgium refunds VAT incurred by businesses that are neither established in Belgium nor required to be registered for VAT there. A non-established business is allowed to claim Belgian VAT to the same extent as a VAT-registered business.

For businesses established in the EU, refund is made under the terms of the EU 8th Directive. For businesses established outside the EU, refund is made under the terms of the EU 13th Directive. Belgium does not exclude any non-EU country from the refund scheme.

VAT refund claims of EU businesses not established in Belgium can be filed through a portal website in the home country of the non-established entity. Original invoices do not need to be submitted with the refund claim.

Claims must be filed through a portal website in the home country. In some cases, electronic copies of invoices must be added, depending on the type of cost and the taxable amount of the invoice.

The minimum claim period is three months, while the maximum period is one year. The minimum claim for a period of less than a year is EUR400. For an annual claim, the minimum amount is EUR50.

The statute of limitations for all refund claims is one year, and claims must be submitted before 30 September of the following year.

COMPLIANCE OBLIGATIONS

Belgian VAT returns are usually submitted for monthly periods, and for taxable persons with more than EUR50,000 of intra-Community supplies of goods per quarter, a monthly filing is required.

Taxable persons with a turnover of less than EUR2,500,000 may opt to submit returns quarterly (for some supplies of goods, the threshold is EUR250,000). A taxable person who has chosen to file quarterly VAT returns can, during the calendar year, be obliged to start filing monthly VAT returns from the time the threshold of EUR2,500,000 of annual turnover or EUR50,000 of intra-Community supplies of goods per quarter has been exceeded.

Taxable persons that file quarterly returns must prepay the VAT monthly based on the amount of VAT payable in the previous quarter. Return liabilities must be paid in euros.

Monthly VAT returns and payment are due the 20th day of the month following the return period. However, if that date falls on a Saturday, Sunday or public holiday, the due date will be postponed to the next working day. The payment of the VAT due needs to be made by the same date.

Quarterly VAT returns must be filed by the 20th day following the relevant calendar quarter. However, if that date falls on a Saturday, Sunday or public holiday, the due date will be postponed to the next working day. The payment of the VAT due needs to be made by the same date.

Monthly payments for the quarter must be made on the 20th day of the second and third months of the VAT quarter. The amount due is a prepayment that must equal 1/3 of the balance of VAT due for the previous quarter. The balancing payment is due with the VAT return.

Annually, the Annual Sales Listing registering all sales performed to Belgian Taxable persons need to be filed by the 30st of March of the year following the year during which the operations have taken place.

EU DECLARATIONS

Intrastat. A Belgian taxable person that trades with other EU countries must complete statistical reports, known as Intrastat if the value of either its sales or purchases of goods exceeds certain thresholds. Separate reports are required for intra-Community acquisitions (Intrastat Arrivals) and for intra-Community supplies (Intrastat Dispatches).

The threshold for Intrastat Arrivals for the 2015 calendar year is EUR700,000.

The threshold for Intrastat Dispatches for the 2015 calendar year is EUR1 million.

Belgian taxable persons must complete Intrastat declarations in euros, rounded up to the nearest whole number.

The Intrastat return period is monthly. The submission deadline is the same as for the VAT return, which is the 20th day of the month following the return period.

A penalty, varying from EUR100 to EUR10,000, can be imposed if a person does not comply with the imposed obligations. No distinction is made according to the nature of the offense (e.g., late submission, missing or inaccurate declarations).

EU Sales Lists. If a Belgian taxable person makes intra-Community supplies in a return period, it must submit an EU Sales List (ESL) to the Belgian VAT authorities. An ESL is not required for a period in which the taxable person has not made any intra-Community supplies.

Supplies of goods are marked by the letter "L" and supplies of services by the letter "S." Intra-Community sales performed by party B in simplified triangulation schemes must continue to be marked by the letter "T."

Effective from 1 January 2010, ESLs are filed monthly by monthly VAT filers and quarterly by quarterly VAT filers.