

LUXEMBOURG

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AT A GLANCE

Name of the tax Value Added Tax
Local name Umsatzsteuer
Date introduced 1er January 1970
Administered by Administration de l'Enregistrement et des Domaines (www.aed.public.lu)

VAT rates

Standard 17%
Reduced 3%
Other see under exemptions

VAT Number format LU 12345678
VAT return periods monthly; but quarterly possible if the annual turnover is under the threshold of 620 000 EUR or annual if under the threshold of 112 000 EUR. In any case, an annual return has to be submitted.
Thresholds registration Possibility to be exempted if the turnover is under 25 000 EUR per year

Recovery of VAT by non-established Businesses Yes

HISTORY OF VAT

The cumulative tax on turnover has been introduced by Germany during the second world war and has been replaced in 1969 by the VAT system. The implementation of the 6th Directive has been done in 1979. Since this date, the VAT law is applicable and follows mainly the 6th Directive 'principles.

SCOPE OF VAT

Luxembourg VAT law comes from the implementation of the 6th Directive into the national law. So the scope of the VAT in Luxembourg is nearly the same than the one of the EU Directives.

REGISTRATION

VAT registration in Luxembourg is obliged as soon there are economic activities within the meaning of the VAT. A group registration for foreign companies is not possible.

In the following cases a VAT registration is required, even if no fixed/permanent establishment in Luxembourg:

- Sales (of goods stored in Luxembourg) within Luxembourg or to foreign located companies (EU intra community sales, exports)
- Storing goods in a warehouse in Luxembourg as stock for resale (e.g. consignment stock)
- Chain supplies
- Distance selling to private individuals in Luxembourg (over the annual threshold of EUR 100.000,00; some exemptions of this rules exist)
- Works made on a real estate located in Luxembourg
- Procurement services to individuals
- Organizing live events, conferences etc. in Luxembourg
- Trade fair organizing in Luxembourg by a foreign provider for foreign exhibitors (some exemptions of this rules are existing)
- Receipt of services taxable in Luxembourg from suppliers in other countries
- Receipt of other Reverse Charge services taxable in Luxembourg

VAT RATES

Super reduced rate of 3 %: as examples: some animals, food, raw material, books, tickets for museum, theatre or concerts, taxi, renting of short-term accommodations (e.g. hotel), restaurant (except alcoholic beverages), ...

Reduced rate of 8%: flowers and plants, gas for heating, electricity, some of visual arts, ...

Intermediary rate of 14% : light wine, charcoal and woods, ...

17 %: others

PLACE OF SUPPLY RULES

The place of supply is where the transport begins.

Usually, the moving supply appears only once in a chain supply and follows a general rule. If the first supplier is transporting or sending goods, the supply to the first customer in the middle is the moving supply. If the supplier in the middle is acting with the VAT ID no. where the supply starts and bears risk and cost of the transport or if the last customer is picking up the goods, the moving supply is between the last customer and the supplier before.

The static supply is taxable where the goods are put at disposal, when being before the moving supply.

The place of services is where the recipient is running his business for individuals (B2C). Between VAT identified bodies, the place of services is deemed to be the place of the recipient (B2B).

There exist exemptions e.g. for services with property / real estates, the granting of entry tickets to e.g. cultural, artistic or sport events and for services to individuals.

TIME OF SUPPLY RULES

The tax liability is arising in the VAT period, when the supply or service will be performed. The date of delivery is when the customer is receiving the goods and the date of service is the last date of the service.

The rule of taxation according to the income received is an exemption to the general rule and has to be asked for. The VAT liability is arising, at the moment when the income is received.

EXEMPTIONS

VAT free supplies are exports and intra-community deliveries with tax credit / tax refund. Without tax credit are for example the purchase and sale of real estates, financial transactions, funds management, the renting of flats and houses and the services and supplies of a doctor.

RECOVERY OF INPUT VAT

Since 1st January 2015, a special process is in application for a VAT refund. This can be asked any time based on a formal process and in respect of some times frame. Total process should

not exceed more than 6 months. Tax office is often requesting the (original) invoices before to refund the VAT. When performing tax free supplies, the refund of input VAT could be restricted or limited.

According to the 8th directive, EU companies can reclaim VAT in Luxembourg until latest September 30th of the following year. Usually, the time period to receive the refund takes about six months. The VAT refund application form has to be submitted electronically in the state of resident without signature.

According to the 13th directive companies outside the EU can reclaim the VAT in Luxembourg until June 30th of the following year. The time period to receive the refund takes at least 6 to 9 month and on average one year. Luxembourg authorizes the refund of VAT provided that one can justify that the requestor is a VAT payer or an equivalent. VAT cannot be recovered on goods and services for private purposes, services or goods connected to certain exempt activities. The original invoices, receipts, bills etc., original customs declaration documents for import VAT, a VAT certificate in the country of residence (not older than one year), authority and the signature of the claimant are necessary.

COMPLIANCE OBLIGATIONS

Usually, VAT audits are based on the annual VAT return. Financial statements and specific enclosures have to be enclosed to the VAT return.

An outgoing invoice has to be issued latest 15 days after the date of supply or service (general rule). Also electronic invoices or self-billing invoices are possible, if there is an agreement between the supplier and the customer.

The filing and payment due date for the VAT periods monthly and quarterly is always the 15th of the following month/quarter. The annual VAT return has to be filed within the following year (1st March if a single annual return and 1st may in the other cases). The payment is due with the filing of the return. Actually, for the monthly and quarterly VAT reports a permanent extension of two months is granted. In this case the payment due date would be adapted. Late payment penalties with 0,6% per month could arise and also late filing penalties (will be set up individually by the tax office).

All incoming (original) and outgoing invoices including all documents for intra-community deliveries and exports have to be kept for 10 years.

SPECIAL CASES

In Luxembourg a differential taxation rule (directly in the VAT return) for import exists, if the recipient is a VAT payer.

The reverse charge system is only applicable for Luxembourg companies in the principle cases provided by the 6th Directive (B2B). Usually, other services located in Luxembourg and

performed by foreign companies would lead to a VAT identification in Luxembourg (for instance : construction work, purchases and sales of real estates, granting of admissions to events like conferences, congresses, fairs etc., trade fair organizing in Luxembourg by a foreign provider for foreign exhibitors, passenger transport by taxi or cars; ...).

For real estate transactions, there exists the possibility to opt for VAT application at any time.

A VAT warehouse system has been implemented (free ports infrastructure).

RIGHTS OF THE TAX PAYER AND THE VAT AUTHORITIES

The tax payer can change the VAT returns with revisions and latest with the filing of the annual VAT return. There is the possibility to file an objection against tax assessment notes within three months after receiving the assessment note.

If there is the obligation to file VAT returns and no returns were filed, the tax office can estimate the VAT amount. The tax authorities are allowed to announce a tax audit.

EU DECLARATIONS

INTRASTAT declarations have to be filed on the 6th of the following month, if there is something to declare. This deadline is extended to the 16th if electronically filled.

The threshold for arrivals is each time €200.000 and €150.000 for dispatches.

If sales or services are performed to other EU companies, an EC-sales list has to be filed on a monthly or quarterly basis at best convenience; due date for filing is the 25th of the following month/quarter.