

2005



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Worldwide VAT and GST Guide

PREFACE

The *Worldwide VAT and GST Guide* summarizes the value added tax and goods and services tax systems in 62 countries and the European Union. The content is based on information current to 1 March 2005, and is supplied by our professionals in the jurisdictions covered. The guide also contains a directory of indirect tax contacts in offices of our practices around the world.

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Ernst & Young also publishes companion volumes on corporate tax regimes and personal tax systems and immigration rules for executives.

Directory

Office addresses, and names and telephone numbers of indirect tax contacts, are provided for each country.

The listing for each tax contact includes an office telephone number, which is a direct dial number if available. The international telephone country code is listed in each country heading and, if presented as part of a telephone number, is surrounded by brackets. Telephone numbers are presented without the domestic prefix (1, 9, or 0) sometimes used within a country.

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March 2005

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | January 1975 |
| European Union (EU) | |
| Member State | No |
| Administered by | The Federal Administration for Public Revenues http://www.afip.gov.ar |
| VAT Rates | |
| Standard | 21% |
| Reduced | 10.5% |
| Increased | 27% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 30-99999999-1 (CUIT Number) |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | ARS 144,000 (for goods) ARS 72,000 (for services) |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Argentina by a taxable person;
- Reverse charge services received by a taxable person in Argentina; and
- The importation of goods from outside Argentina.

C. Who Is Liable

A registered VAT payer is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in Argentina and is required to register for VAT.

The VAT registration threshold is annual taxable turnover in excess of ARS 144,000 for supplies of goods and annual taxable turnover in excess of ARS 72,000 for supplies of services.

Group Registration

VAT grouping is not allowed under the Argentine VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Argentina. A non-established business must register for VAT if it makes supplies of goods or services in Argentina and is liable to account for VAT on the supply. In these circumstances, the non-established business must register as a taxpayer. A non-established business is not required to appoint a tax representative in order to register.

Reverse Charge Services

The “reverse charge” applies to supplies of services made outside Argentina if the use or effective exploitation of the service occurs within Argentina and the service is within the scope of VAT. Under this provision, the taxable person that receives the supply must account for the VAT due. If the reverse charge applies, the non-established supplier of the service is not required to register for VAT.

Late Registration Penalties

Penalties and interest are assessed for late registration for VAT. Penalties also apply for VAT fraud.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT, including supplies at the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Argentina, four rates of VAT currently apply – the standard rate at 21%, the reduced rate at 10.5%, the increased rate at 27% and the zero rate (0%). The 21% standard rate applies to all supplies of goods or services, unless a specific provision imposes the higher rate or allows a reduced rate, the zero rate or an exemption.

For the period from 18 November 2002 to 17 January 2003 inclusive, the 21% rate was reduced to 19% and the 10.5% rate was reduced to 9.5%.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced or increased rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Education
Rental of real estate under certain conditions
Concession awards
Certain staple foods (for example, water, milk and bread)
Local passenger transportation (less than 100 km)
International transportation
Interest on preferred shares and equity securities, bonds and other securities issued by the federal government, provinces and municipalities

Examples of Goods and Services Taxable at 10.5%

Interest and commissions on loans
The sale, preparation, manufacture or construction and final import of certain capital assets
Long distance passenger transportation (over 100 km)

Examples of Goods and Services Taxable at 0%

Exported goods
Exported services

Examples of Goods and Services Taxable at 27%

Telecommunications
Supply of gas, electric power and water
Sewage disposal and drainage services

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is the earlier of when the goods are delivered or the invoice is issued. The basic time of supply for services is the earlier of when the service is performed or completed, and when full or partial payment of the consideration is received.

Imported Goods

The time of supply for imported goods is when the goods clear all customs procedures.

Reverse Charge Services

The time of supply for a reverse charge service is the earlier of when the service is provided or when the consideration is paid in full or in part.

The recipient of the service must pay the tax 10 days after the time of supply arises. The amount paid may be treated as input VAT (that is, VAT deductible on purchases) in the tax period immediately following the tax period when the tax point arose.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services supplied to it

for business purposes. Input tax is generally recovered by being deducted from output tax (also known as debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Argentina, VAT paid on imports of goods and VAT self-assessed on reverse charge services

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Accommodation
Private use of business assets
Parking

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising
Books
Business gifts
Purchase, lease or hire of a car, up to a threshold of ARS 4,200
Business entertainment
Purchase, lease or hire of vans and trucks
Mobile phone
Travel expenses
Taxis

Refunds

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

If a taxable person has paid too much VAT in a period in error, it may request a refund of the overpaid amount. Interest is paid by the VAT authorities on overpaid tax at the rate of 0.50% per month.

G. Recovery of VAT by Non-Established Businesses

Argentina does not refund VAT incurred by businesses that are not established in Argentina nor registered for VAT there. However, a VAT refund system does apply to purchases made by foreign tourists.

H. Invoicing

Sales Invoices and Credit Notes

A taxable person must generally provide a Sale invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax deduction.

A Credit Note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain the same information as a Sale invoice.

Exports

Argentine VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that the goods have left Argentina. The related input VAT may be reimbursed from the federal government. Invoices for export transactions must be identified with the letter “E” to distinguish them from invoices for domestic supplies.

Foreign Currency Invoices

If a VAT invoice is issued in foreign currency, the values for VAT purposes must be converted to Argentine pesos (ARS). If no authorized exchange rate applies, the conversion must be done using the selling exchange rate of the Argentine National Bank that applies at the end of the day immediately preceding the date of the tax point.

I. VAT Returns and Payment

VAT Returns

VAT returns are submitted for monthly periods. VAT returns and payment in full are due between the 18th to the 22nd day of the month following the end of the return period, depending on the last figure of the taxpayer’s identification (CUIT) number. The due date may vary from month to month.

Return liabilities must be paid in Argentine pesos or they may be offset by a credit balance arising from another tax collected by the Federal Administration for Public Revenues.

Penalties

Penalties are assessed for errors and omissions connected with VAT accounting, including the following:

- A penalty ranging from ARS 169 to ARS 338 for failure to file a tax return;
- A penalty ranging from 50% to 100% of the tax due for unpaid VAT; and
- Fines ranging from two to ten times the amount of tax evaded.

In addition, interest is assessed at a rate of 2% monthly on unpaid VAT.

Criminal tax evasion may be punished by a term of imprisonment, depending on the severity of the case.

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A. At a Glance

| | |
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| Name of the Tax | Goods and Services Tax (GST) |
| Date Introduced | 1 July 2000 |
| European Union (EU) Member State | No |
| Administered by | Australian Taxation Office http://www.ato.gov.au |
| GST Rates | |
| Standard | 10% |
| Other | GST-Free (Zero-Rated) and Input Taxed (Exempt without Credit) |
| GST Number Format | ABN 12345678901 |
| GST Return Periods | Monthly (turnover in excess of A\$20 million, optional for all other registered persons) Quarterly (turnover below A\$20 million) Annual with quarterly payments (turnover below \$2 million) Annual (turnover below A\$50,000) |
| Thresholds | |
| Registration | A\$50,000 (A\$100,000 for nonprofit bodies) |
| Recovery of GST by Non- Established Businesses | No |

B. Scope of the Tax

GST applies to the following transactions:

- Taxable supplies of goods and services – that is, supplies that are connected with Australia and are made for consideration in the course of a business enterprise by a person who is registered or is required to be registered for GST;

- Reverse charge supplies made to a registered person in Australia if the supply is not connected with Australia and the recipient of the supply does not make the acquisition solely for a creditable purpose; and
- Taxable importations of goods into Australia, irrespective of the status of the importer.

C. Who Is Liable

The GST registration threshold is A\$50,000 (or A\$100,000 for nonprofit bodies). The threshold applies retrospectively and prospectively, as follows:

- Based on current turnover (that is, turnover in the current month and the previous 11 months); or
- Based on projected turnover (that is, turnover in the current month and expected over the next 11 months).

“Turnover” for these purposes excludes turnover from input taxed (exempt) supplies and supplies that are not “connected with Australia”.

Voluntary Registration

An entity whose turnover is below the registration threshold may apply to register for GST voluntarily provided that the entity is carrying on an enterprise.

Deregistration

An entity that ceases to carry on an enterprise must cancel its GST registration. The entity must notify the Australian GST authorities that it is no longer entitled to be registered within 21 days of ceasing operations. An entity that is no longer required to be registered may apply to cancel its registration, however, the Commissioner of Taxation is not obliged to cancel the registration if a business has been registered for less than 12 months.

Group Registration

Subject to certain requirements, two or more entities that are closely related may form a GST group. The effect of GST grouping is to treat the group members as a single entity for certain purposes. Generally, all GST liabilities and input tax credit entitlements for group members are attributed to a representative member of the group, and the group submits a single GST return. The representative member of the group must be resident in Australia. However, non-residents may be included in a GST group as members. Transactions between group members are considered nontaxable for GST purposes.

Grouping is permitted for companies, partnerships and trusts. For companies to be included in a GST group, they must be connected by a 90% (or greater) share ownership relationship in terms of voting power, right to receive dividends and right to receive capital distributions. However, it is not necessary to include all eligible companies in a GST group. The rules for the grouping of trusts and partnerships with companies are complex.

Branch Registration

An independent branch of a company may be registered separately as a GST branch, with its own GST number. Certain requirements must be met relating to the nature of the activities and

accounting systems of proposed GST branches. In addition, a branch of a registered entity may not be registered as a GST branch if the entity is a member of a GST group.

Nonresident Entities

GST applies to taxable supplies and to taxable importations made by nonresidents. A nonresident entity is not required to appoint a tax or fiscal representative in Australia. However, GST payable on any taxable supply or taxable importations made by a nonresident through a resident agent is payable by the agent. The nonresident is still required to be registered for GST, but need not submit GST returns if all supplies or acquisitions are made through the agent.

As an alternative to registration, some nonresidents may account for GST under the voluntary reverse charge procedure.

Voluntary Reverse Charge

GST on a taxable supply is payable by the recipient and not by the supplier if all the following conditions are met:

- The supplier is a nonresident;
- The supplier does not make the supply through an enterprise that it carries on in Australia;
- The recipient is registered (or is required to be registered) for GST; and
- The supplier and recipient agree that the GST is payable by the recipient.

The voluntary reverse charge does not apply in the following circumstances:

- If the compulsory reverse charge applies; or
- If the supply is made by the nonresident through a resident agent.

Compulsory Reverse Charge

A compulsory reverse charge applies in the following circumstances:

- The recipient of the supply is registered (or required to be registered);
- The supply is for consideration;
- The recipient acquires the supply solely or partly for the purpose of a business enterprise carried on by it in Australia; and
- The acquisition is not solely for a creditable purpose (that is, it is not eligible for full input tax credits); and the supply is not input taxed or GST-free.

The compulsory reverse charge applies mainly to businesses that make input taxed (exempt) supplies, or if an acquisition is made for a partly private or domestic purpose. The reverse charge does not apply to private consumers, who are not registered or required to be registered for GST.

Late Registration Penalties

Penalties and interest may be imposed for late registration or for failure to register, as well as for late submission of a GST Business Activity Statement (see Section I *GST Returns and Payments*) or late payment of GST.

D. GST Rates

The terms “taxable supplies” and “taxable importations” refer to supplies of goods and services and importations that are liable to GST. Taxable supplies are supplies charged at the standard rate of GST, which is 10%.

“Input taxed supplies” are supplies not liable for GST that do not give rise to a right to claim input tax credits for related acquisitions (see Section F *Recovery of GST by Registered Persons*). GST-free supplies are supplies not liable for GST that do give rise to a right to claim input tax credits for related acquisitions.

The following table lists examples of input taxed and GST-free supplies of goods and services, subject to satisfying certain pre-conditions. This list is not exhaustive.

Examples of Input Taxed Supplies of Goods and Services

Financial supplies
 Rental of residential premises
 Sales (or long-term leases) of residential premises (except for new residential premises)
 Supplies of some precious metals
 Supplies in the course of fund-raising events conducted by charitable institutions
 Supplies made through school “tuck shops” and cafeterias

Examples of GST-Free Supplies of Goods and Services

Basic foodstuffs
 Water, sewerage and drainage services
 Exports of goods and services performed for nonresidents of Australia who are not in Australia when the supply is made
 Health, education, religious and related supplies
 Child care
 Supplies of going concerns
 International transport and mail

E. Time of Supply

The time when GST is payable on a supply depends on whether the taxable person accounts for GST on a cash basis or on an accruals basis.

Cash Accounting

Taxable persons whose turnover does not exceed A\$1 million may account for GST on a cash basis. Cash accounting is also available to certain other entities irrespective of turnover (including charities, gift-deductible entities and government schools).

For taxable persons that use cash accounting, GST is payable in respect of a taxable supply in the tax period when the consideration is received. If only part of the consideration is received in a particular tax period, GST is payable only on that part.

Accruals Basis

For businesses that account for GST on an accruals basis, GST is payable in respect of a taxable supply in the earlier of the following:

- The tax period when the invoice is issued; or
- When any of the consideration is received for the supply.

Prepayments

If a prepayment or a deposit is treated as part payment of the consideration for a supply, GST is payable in the period when the deposit is paid. For taxable persons who use the accruals basis of accounting, the deposit triggers a liability to account for GST on the full value of the supply. For taxable persons that use cash accounting, GST is payable on the amount of the deposit.

Security deposits are not considered to constitute payment of the consideration for a supply until the deposit is either forfeited or is applied as partial payment toward the consideration for the supply.

Continuous Supplies

If a supply is made continuously over a period of time for consideration that is either paid progressively or periodically, the supply is treated as if each part is separate. GST is payable in each tax period when the consideration is received.

Imported Goods

The time when GST is payable for imported goods is either

- The time of importation; or
- If the importer is registered under the GST deferral scheme, on the due date for the importer's next Business Activity Statement (see Section I *GST Returns and Payment*).

F. Recovery of GST by Registered Persons

A registered person may recover input tax on "creditable acquisitions," that is, the GST charged on goods and services that a registered person acquires for creditable purposes. Input tax is generally recovered by being offset against GST payable on taxable supplies.

Input tax includes GST charged on goods and services acquired within Australia, GST paid on importations of goods and GST paid under reverse charge arrangements.

A valid tax invoice or customs document must generally be retained to support claims for input tax credits.

Non-creditable Acquisitions

"Non-creditable acquisitions" are purchases of goods and services used to make input taxed supplies or acquisitions that are not used for business purposes (for example, goods acquired for private use by an entrepreneur). In addition, input tax credits are blocked or reduced for some items of business expenditure.

However, acquisitions related to making financial supplies that do not exceed the "Financial Acquisitions Threshold" remain creditable. An entity exceeds the financial acquisitions threshold if in the current month and the previous 11 months or in the current month and the next 11 months the GST on acquisitions related to financial supplies exceeds, or will exceed, either A\$50,000 or 10% of the total input tax an entity incurs. In calculating the amount of GST on financial acquisitions, financial acquisitions related to borrowings are excluded. Acquisitions related to borrowings that are not used to make input taxed supplies also remain creditable.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Non-creditable Acquisitions

Acquisitions used for non-business purposes
 Entertainment acquisitions that are ineligible for income tax deductions
 Acquisitions related to input-taxed supplies (however, acquisitions related to making financial supplies that either do not exceed the financial acquisitions threshold, or relate to borrowings not used to make input taxed supplies, remain creditable)

Examples of Creditable Acquisitions

Advertising
 Attendance at conferences and seminars
 Purchase, lease and hire of a car, van or truck
 Maintenance and fuel for a car, van or truck
 Parking
 Mobile phones (GST may be payable on any recharge of costs to employees)

Partly Creditable Acquisitions (Partial Exemption)

A creditable acquisition is an acquisition of goods or services used by a registered person in its business enterprise. Input tax credits are not available, however, for GST on acquisitions that are used for making input taxed (exempt) supplies, subject to whether an entity exceeds the Financial Acquisitions Threshold.

Generally, the amount of the input tax credit available for a creditable acquisition is the amount of GST payable on the supply. However, the amount of the input tax credit is reduced if the acquisition is only “partly creditable”. An acquisition is partly creditable if either of the following conditions applies:

- The acquisition is made only partly for a creditable purpose (that is, it partly relates to input taxed supplies); or
- The taxable person provides, or is only liable to provide, part of the consideration for the acquisition.

The amount of the input tax credit for a partly creditable acquisition is based both on the extent to which the acquisition is made for a creditable purpose and on the amount of the total consideration that is provided by the taxable person.

The Australian tax authorities require that the extent to which an acquisition is made for a creditable purpose is determined to reflect the planned use of the acquisition “on a reasonable basis.” Direct allocation methods are preferred if possible. However, indirect allocation methods are acceptable if it is not feasible to use a direct method. Examples of common indirect methods include:

- A pro rata calculation, based on the cost of acquisitions used to make taxable supplies compared with the total costs of all acquisitions; and
- A pro rata calculation, based on the total value of taxable supplies made compared with the total value of all supplies made.

Subsequent input tax credit adjustments may be required in later tax periods, depending on the actual use of the acquisition compared with its expected use.

Refunds

If the amount of input tax credits in a period exceeds the GST payable in the same period, the excess amount is applied against any other outstanding tax debts and any surplus is refunded. Any refunds of GST must be paid into an Australian bank account.

G. Recovery of GST by Non-Established Businesses

Only entities that are registered for GST may claim refunds of GST incurred on Australian acquisitions.. Generally, entities (including nonresidents) that make acquisitions in Australia for the purposes of their enterprises may register for GST if necessary.

H. Invoicing

Tax Invoices and Adjustment Notes

A registered person must generally provide a tax invoice for all taxable supplies made if requested to do so by the recipient of a supply. A tax invoice is not automatically required for retail sales.

A tax invoice is generally necessary to support claims for input tax credits.

An adjustment note (or credit or debit note) may be issued to reduce or increase the amount of GST payable on a supply if the amount of GST originally charged is incorrect (for example, as a result of an error or because of an agreed adjustment to the price). The adjustment note must be clearly marked either as an adjustment note or as a tax invoice (provided the amount of any credit is shown as a negative amount) and it must provide detailed particulars of the adjustment made.

Proof of Exports

Exports of goods are GST-free. To qualify as GST-free, goods must generally be exported within 60 days. Exports must also be supported by evidence that indicates the goods have left Australia within the allowed time. A supplier must have documents that would enable a person who is independent of the transaction to reasonably conclude that there was a supply of goods and that the supplier exported them within the specified time limits.

Foreign Currency Invoices

If a tax invoice or adjustment note is issued in a foreign currency, the GST must be shown in Australian dollars (A\$) or the applicable exchange rate used must be shown. Registered persons may use the exchange rate issued by the Reserve Bank of Australia applicable at 4 pm on the day of the invoice or on the previous day, or any other rate that is acceptable to the Australian tax authorities.

I. GST Returns and Payment

Business Activity Statement (BAS)

GST liabilities are reported using a Business Activity Statement (BAS). Registered persons whose annual turnover equals or

exceeds A\$20 million must complete a BAS each month, which must be filed and paid electronically. Monthly returns and payments are due by the 21st day following the end of the return period.

Registered persons whose annual turnover does not exceed A\$20 million must submit a BAS each quarter or they may opt to submit monthly. These registered persons may also choose to report some information annually. Quarterly returns and payments are generally due by the 28th day following the end of the relevant return period, but may be made by 28 February for the December quarter.

Registered persons whose turnover does not exceed A\$2 million may opt to file an annual BAS and pay GST by quarterly installments.

Persons whose turnover does not exceed A\$50,000 and who voluntarily opt to register for GST, may apply to file an annual BAS and pay GST annually.

GST liabilities must be paid in Australian dollars.

Penalties

A late lodgment penalty may be imposed for the late filing of a BAS. The amount of the penalty varies depending on the size of the entity. Penalties range from A\$110 for small businesses and individuals to A\$550 for large businesses, and they apply to each statement for every 28-day period that the BAS is overdue, or part thereof. General interest charges may be imposed on late payments of GST. The rate changes quarterly. It is generally in the vicinity of 12% to 13% per annum, compounded daily.

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Indirect Tax Contact

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A. At a Glance

| | |
|---------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Umsatzsteuer |
| Date Introduced | 1 January 1973 |
| European Union (EU) | |
| Member State | Yes |
| Administered by | The Federal Ministry of Finance http://www.bmf.gv.at |

| | |
|---|--|
| VAT Rates | |
| Standard | 20%, 16% |
| Reduced | 10%, 12% |
| Other | Exempt and Exempt with Credit |
| VAT Identification Number | |
| Format | ATU 1 2 3 4 5 6 7 8 |
| Tax Number Format | 1 2 3 / 4 5 6 7 |
| VAT Return Periods | Monthly (turnover in preceding year in excess of €22,000) Quarterly (turnover in preceding year below €22,000) Annually (all businesses) |
| Thresholds | |
| Registration | €7,500 (entities established in Austria) Nil (entities established outside Austria) |
| Distance Selling | €100,000 |
| Intra-Community Acquisitions | €11,000 (acquirers that do not deduct input tax) |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Austria by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in Austria (that is, services for which the recipient is liable to pay the VAT);
- Self supplies of goods and services used for nonbusiness purposes; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

C. Who Is Liable

A “taxable person” is any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales, in the course of a business, in Austria.

Special rules apply to VAT registration for foreign (or “non-established”) taxable persons.

Exemption from Registration

If a business that is established in Austria has an annual turnover of €7,500 or less and does not have to pay taxes for the calendar year, it does not need to register for a tax number or file a VAT return.

Exempt Supplies by Small Businesses

If an Austrian taxable person’s annual turnover is more than €7,500, but not more than €22,000 a year, its supplies are exempt from VAT (with no input tax credit – see Section F

Recovery of VAT by Taxable Persons). However, a taxable person with an annual turnover of less than €22,000 may opt to charge VAT on its supplies and recover input tax on its purchases.

Group Registration

In Austria, group registration may be granted to entities that are closely bound by “financial, economic and organizational” ties. A group consists of a controlling entity and one or more entities that it controls. The controlling entity may be any taxable person, but the controlled entities must all be corporate bodies. The effects of VAT grouping are restricted to the parts of the business that are located in Austria.

To form or join a VAT group, the group members must satisfy the following conditions:

- Financial integration – the controlling group member must own at least 75% of the shares of the controlled companies. If the share ownership is between 50% and 75%, the companies may be considered to satisfy the financial integration test if the other conditions are strongly met.
- Economic integration – the controlled company’s activities support or complement the activities of the controlling entity, and they have a continuous business relationship.
- Organizational integration – the management of the controlled company is fully dependent on the will of the controlling company.

All controlled entities that fulfill these criteria must be included in the VAT group.

The effect of group registration is to treat the members as a single taxable person. Only the controlling entity is registered at the VAT office. The group submits a single VAT return including all the members’ taxable transactions. Transactions between the controlling entity and a controlled company are treated as transactions within a single legal entity and, therefore, they are not taxable.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Austria. No VAT registration threshold applies to taxable supplies made in Austria by a foreign or “non-established” business.

A non-established business must register for VAT in Austria if it makes any of the following supplies:

- Goods located in Austria at the time of supply;
- Intra-Community acquisitions (see the chapter on the European Union);
- Distance sales in excess of the threshold (€100,000); and
- Services that are not covered by the reverse charge.

If the customer is a taxable person (irrespective of where it is established) or a public body it is obliged to withhold the Austrian VAT due on the supply. The customer must pay the withheld VAT on behalf of the supplier to the supplier’s tax account at the tax office at Graz-Stadt. The withheld VAT is credited to the supplier’s annual VAT return debt. If the customer does not comply with this requirement, it may be held liable for the VAT due on the supply.

A non-established business does not have to register for VAT if all its supplies in Austria fall under the “reverse charge” system (under which, the customer accounts for the VAT due). If the reverse charge applies to supplies made by a non-established business, it may recover VAT incurred in Austria under the EU 8th or 13th Directive refund provisions (see Section G *Recovery of VAT by Non-Established Businesses*).

Supplies and Import VAT Refunds for Non-Established Businesses (Prescript 2003/584)

The former exemption available in Austria for non-established businesses (Prescript 800) no longer applies for supplies of goods and services made after 31 December 2003. Instead, a new prescript (Prescript 2003/584) has been introduced, but it only applies to chain transactions involving goods imported into Austria from outside the European Union. For these chain transactions, the supply of goods to the last customer in Austria made by a non-established business is exempt from VAT.

If goods come from a non-EU Country to Austria in the course of a chain transaction and if the last party in the chain owes the VAT payable on their importation, it is the last party who is entitled to deduct the import VAT and not the person that disposed of the goods at the time of import. This mechanism only applies if the following conditions are met:

- The supply to the last party in the chain is effected by a non-established business, which is not VAT registered in Austria;
- The final customer has the right to deduct the full amount of input VAT; and
- No VAT is shown on the invoice.

Any input VAT in connection with this type of supply is not deductible. Also, no more than three parties may be involved in the chain transaction.

Reverse Charge

With effect from 1 January 2004, the reverse charge system applies to all supplies of services and to “work performance” contracts undertaken by a foreign supplier. Under the reverse charge mechanism (except road tolls), the recipient of a supply is liable for the VAT due.

“Supplies of services” are all taxable transactions that are not supplies of goods. “Work performance contracts” are supplies involving the installation of goods that are fixed to the customer’s premises. The reverse charge system applies in these circumstances if the customer is also a non-established business (that is, the Austrian VAT liability may also shift from a non-established supplier to a non-established customer).

If a foreign business exclusively makes supplies in Austria subject to the reverse charge, it may not register for VAT. In these circumstances, Austrian input VAT may only be claimed through the EU 8th or 13th Directive VAT refund schemes (see Section G *Recovery of VAT by Non-Established Businesses*). The input VAT must be reclaimed within 6 months (that is, by 30 June) after the end of the calendar year when the input VAT was incurred.

If the reverse charge mechanism applies, invoices must be issued without VAT. The invoice must include a reference to the applicable reverse charge (for example, “The VAT liability shifts to the customer” or “reverse charge applicable”) and the VAT identification number of the customer.

Reverse Charge for Construction Work

In addition to the reverse charge provision mentioned above, Austria applies a special reverse charge to construction work provided by a subcontractor to a general contractor or by a subcontractor to another subcontractor, regardless of whether the supplier or the recipient of the service are established in Austria. This special reverse charge is a measure taken to avoid tax fraud.

Tax Representatives

A business established in a country outside the European Union must appoint a tax representative to register for VAT in Austria, unless the customer is required to withhold Austrian VAT on the supplier’s behalf. The tax representative must be resident in Austria.

With effect from January 2002, a business established in another EU Member State is not required to appoint a tax representative in order to register for VAT. However, the Austrian VAT authorities do require the non-established business to provide a postal address in Austria to which correspondence may be sent. An EU business may appoint a tax representative if it chooses to do so.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are within the scope of VAT, but which are not liable to tax (see Section F *Recovery of VAT by Taxable Persons*). Exempt supplies do not give rise to a right of input tax deduction on related expenditure. Some supplies are classified as “exempt with credit.” This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services to non-EU countries as well as intra-Community supplies of goods and related services to taxable persons established in the European Union (see the chapter on the European Union).

In Austria, the rate of VAT depends on where the supply is made. In the regions of Jungholz and Mittelberg the standard rate is 16%. In the rest of Austria, the standard rate is 20%. Two reduced rates are also used 10% and 12%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption. The 12% reduced rate applies only to certain wine sales made by the producer.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Supplies by businesses with turnover less than €22,000 annually
 Postal services provided by Post und Telekom Austria AG
 Finance
 Insurance
 Sales and rental of immovable property for commercial use
 Medical services

Examples of Goods and Taxable at 10%

Most foodstuffs
 Books
 Hotel accommodation and restaurant meals
 Passenger transport
 Residential apartment rental
 Supplies made by private hospitals and charitable organizations
 Supplies made by artists

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” As a general rule, the time of supply is the end of the calendar month in which goods are supplied or a service is performed. The time of supply may be postponed by one month by issuing the invoice for the supply after the end of the month in which the supply took place.

Prepayments

The time of supply for a deposit or prepayment is the end of the calendar month in which the prepayment is received.

Goods Sent on Approval or For Sale or Return

The time of supply for goods sent on approval or for sale or return is the date when the customer adopts the goods. If the goods are sent on “sale or return” terms, the time of supply is the date when the goods are sent. If the goods are returned, the supply is cancelled.

Intra-Community Acquisitions

For intra-Community acquisitions of goods, the time of supply is the date when the invoice is issued, or at the latest, the 15th day of the month following the arrival of the goods.

Imported Goods

The time of the supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Austria, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally support a claim for input tax.

Non-Deductible 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 Austria, input VAT may be claimed in full for business assets that are used primarily for private purposes (minimum 10% business use), but the taxable person must account for output tax in respect of their private use. In addition, input tax may not be recovered for some items of business expenditure.

The following table sets out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax is Non-Deductible

Expenditure on the purchase, lease, hire or maintenance of cars
 Fuel expenses for a car
 Private expenditure
 Business gifts disallowed for direct tax purposes
 Parking expenses for a car

Examples of Items for which Input Tax is Deductible

Accommodation
 Mobile phone costs
 Books
 Small business gifts, if allowed for direct tax purposes (but gifts are subject to output VAT if exceeding a value of €40.00)
 Employee subsistence costs
 Purchase, lease hire, maintenance and fuel for vans and trucks
 Entertainment of business partners (restaurant expenses), if predominantly for marketing purposes
 Taxis
 Business travel

Partial Exemption

Input tax directly related to the making of exempt supplies without credit is not recoverable. If an Austrian taxable person makes both exempt supplies without credit and taxable supplies it may not recover input tax in full. This situation is referred to as “partial exemption.”

The general partial exemption calculation is performed in two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxable supplies. Supplies that are exempt with credit are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies without credit is not deductible; input tax directly allocated to taxable supplies is deductible.
- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies without credit and cannot be directly allocated, in order to allocate a portion to taxable supplies. This treatment applies, for example, to the input tax related to general business overheads. In Austria, the pro rata

calculation is based on the value of taxable supplies compared to the total value of supplies made. The pro rata recovery percentage is normally taken to two decimal places.

An alternative method is a simple pro rata calculation. A partially exempt taxable person may choose to use the pro rata method alone, provided it does not result in the recovery of an amount of input tax more than 5% higher than would be recoverable under the direct allocation method.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period.

In Austria, the capital goods adjustment applies to the following assets for the number of years indicated, if the input VAT exceeds €220:

- Land, buildings and additions to buildings, basic alterations and major repairs to buildings (adjustment period of 10 years); and
- Other fixed assets (adjustment period of five years).

The adjustment is applied each year following the acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for land and buildings and $\frac{1}{5}$ for other movable capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

In Austria, the capital goods scheme also applies to current assets and services if the criteria for deducting input VAT changes, for example, the type of business carried on changes from fully taxable to exempt.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The credit may be claimed as a refund by submitting the periodic VAT return or by sending a repayment claim letter to the relevant VAT office.

G. Recovery of VAT by Non-Established Businesses

Austria refunds VAT incurred by businesses that are neither established in Austria nor registered for VAT there. A non-established business is permitted to claim Austrian VAT to the same extent as a VAT-registered business.

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

The VAT refund procedure under the EU 8th or 13th VAT Directive may be used only if the business did not perform any taxable supplies in Austria during the refund period (excluding supplies covered by the reverse charge – see Section C *Who Is Liable*).

Refund Application

The deadline for refund claims is 30 June of the year following that in which the tax was incurred. This deadline is firm and may not be waived or extended.

Claims must be submitted in German and must be accompanied by the appropriate documentation.

The claimant must submit the following forms:

- The official form issued by the Austrian authorities (U5) or any claim form issued by an EU Member State. The relevant invoices must be listed on the reverse of the form. Photocopied forms are accepted provided the signature is original;
- The original invoices must be attached to the claim form;
- If the claimant appoints a fiscal representative, an original Power of Attorney appointing the representative must be submitted; and
- A certificate of the taxable status of the business must be obtained from the competent tax authority in the country in which the business is established.

It is not obligatory to appoint a fiscal representative in Austria for a VAT refund claim. However, the claimant must provide an address in Austria to which the Austrian tax authorities may send correspondence.

The minimum claim period is three months. The maximum period is one year. The minimum claim for a period of less than a year is €360. For an annual claim the minimum amount is €36.

Applications for refunds of Austrian VAT may be sent to the following address:

Finanzamt Graz-Stadt
 Referat fuer auslaendische Unternehmer
 Conrad-von-Hoetendorfstr. 14-18
 A-8018 Graz
 Austria

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

H. Invoicing

VAT Invoices and Credit Notes

An Austrian taxable person must generally provide a VAT invoice for all taxable supplies, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to cancel or amend a previous VAT invoice. A credit note must be cross-referenced to the original VAT invoice and must indicate why the original invoice needs correction.

Proof of Exports and Intra-Community Supplies

Austrian VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence proving that the goods have left Austria. Acceptable proof includes the following documentation:

- For an export, the export document, officially validated by customs, showing the supplier as the exporter, or freight documents; and
- For an intra-Community supply, a range of commercial documentation is needed, including an invoice indicating the supplier's and customer's EU VAT identification numbers and freight documents (such as, proof of receipt of the goods by the customer) and containing a statement that the transaction is an intra-Community supply that is exempt from VAT.

In Austria, the supplier must keep a list of all transactions, including full details of why any VAT exemption applies (for example, because the supply is an export or an intra-Community supply).

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, the foreign currency used must be clearly indicated. All VAT and customs duty amounts must be converted to Euros (€) using the exchange rates issued monthly by the Austrian Ministry of Finance.

I. VAT Returns and Payment

VAT Returns

Austrian VAT returns are submitted monthly if taxable turnover exceeded €22,000 in the preceding year. If a business commences operations, it must submit monthly returns if its turnover will exceed €22,000 in the first year. If turnover is less than €22,000, returns may be submitted quarterly. In addition, all taxable persons must submit an annual return.

Monthly VAT returns and full payment of the VAT due must be made by the 15th day of the second month following the return period. If the taxable turnover in the prior calendar year was less than €100,000 and the payment is made on time, the VAT return form itself does not need to be submitted, unless the VAT authorities demand it. However, the monthly VAT return form must be submitted if a company is in a repayment position.

Quarterly VAT returns and full payment of the VAT due must be submitted by the 15th day of the second month following the end of the VAT return period.

VAT returns and EC Sales lists must be filed electronically, if the taxable person has the necessary technical means available to do so.

Penalties

A penalty equal to 2% of the VAT due applies to the late payment of VAT. If the VAT payment has not been made three months after the due date, an additional second penalty is assessed, equal to 1% of the VAT due. If the amount remains unpaid three months after the date that the second penalty was imposed, a third penalty is assessed, equal to 1% of the VAT due.

The VAT authorities may, at their discretion, impose a penalty of up to 10% of the VAT due for the late submission of a VAT return.

If a taxable person continually fails to pay VAT, the VAT authorities may consider the late payment to be tax fraud, which is subject to much higher penalties.

J. EU Declarations

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

The threshold for INTRASTAT Arrivals for the calendar year 2005 is €250,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €250,000.

INTRASTAT returns may be filed on paper or electronically. The returns must be completed in Euros. The return period is monthly. The submission deadline is the 10th business day of the month following the return period.

Penalties may be incurred if INTRASTAT declarations are persistently late, missing or inaccurate.

EU Sales Lists

If an Austrian taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL) to the Austrian VAT authorities. An ESL is not required for any period in which no intra-Community supplies have been made.

ESLs are submitted quarterly. The due date is 30 days following the end of the ESL quarter.

Late submission of ESLs may lead to a penalty of up to 1% of the amount of intra-Community supplies, determined at the discretion of the tax authorities, but the penalty may not exceed €2,200 per ESL.

Incorrect submission of ESLs may be viewed as an offense against the law and may lead to a penalty of up to €3,625.

BARBADOS

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 January 1997 |
| European Union (EU) Member State | No |
| Administered by | Customs & Excise Department Value Added Tax Division 3rd Floor Weymouth Corporate Centre Roebuck Street St. Michael Barbados |
| VAT Rates | |
| Standard | 15% |
| Reduced | 7.5% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 2XXXXXXX (8 digits) |
| VAT Return Periods | Bimonthly Monthly |
| Thresholds | |
| Registration | BDS\$60,000 |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the supply of goods and services by taxable persons in Barbados and to the importation of goods.

C. Who Is Liable

Barbados VAT law imposes a registration requirement on any person who makes taxable supplies in Barbados, other than a person whose annual turnover is less than BDS\$60,000 a year.

In general, any person that commences making taxable supplies in Barbados must apply for registration to the VAT authorities within 21 days of making supplies.

Group Registration

VAT grouping is not allowed under the Barbados VAT law. Legal entities that are closely connected must register for VAT individually.

Reverse Charge

No “reverse charge” mechanism applies in Barbados.

D. VAT Rates

The term “taxable supply” refers to a supply of goods and services that is liable to VAT, including a supply at the zero rate. The term “exempt supply” is used for a supply of goods and services that is not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Barbados, three rates of VAT currently apply – the standard rate at 15%, a reduced rate of 7.5% and the zero rate (0%). The 15% standard rate applies to most supplies of goods or services while the 7.5% reduced rate applies to the supply of accommodation by guest houses, hotels and inns for use as a vacation or holiday home. Specific provisions state the conditions for supplies to be either zero rated or exempt.

The following table lists examples of exempt and zero-rated supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Financial services
 Medical services
 Residential property sales
 Water and sewerage services
 Public postal services
 Transportation services
 Betting and gaming

Examples of Goods and Services Taxable at 0%

Exported goods
 Certain staple foodstuffs
 Medicines
 Veterinary services
 International cruises

E. Time of Supply

The time when VAT becomes due is called the “time of supply.” Generally, the time of supply for goods and services supplied by a taxable person is the earliest of the following events:

- The date of issue of the invoice by the supplier;
- The date when payment is received for the supply; and
- The date when the goods are made available to the recipient or the services are performed.

A taxable person must account for VAT in the VAT period when the time of supply occurs, whether or not payment is received. Once registered for VAT, the purchaser is entitled to recover the VAT applicable on the tax invoice.

F. Recovery of VAT by Taxable Persons

The tax paid on goods and services, acquired for the purposes of making taxable supplies, is deductible as input tax. Input tax is offset against output tax, which is tax on supplies made. Input tax is deductible at the time the goods and services are acquired.

Goods or services are deemed to be for the purpose of making taxable supplies if the supplier acquired, imported or produced the goods or services for any of the following purposes:

- Their supply or re-supply as a taxable supply; or
- Their consumption or use (whether directly or indirectly or wholly or partly) in producing goods or services for supply as a taxable supply.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not used for business purposes. The following table sets out examples of items of expenditure for which input tax is deductible if the expenditure is related to the making of taxable supplies. This list is not exhaustive.

- Business entertainment; and
- Travel expenses.

Partial Recovery

The Barbados VAT legislation states that if all the supplies made by a taxable person during a tax period are taxable supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are taxable supplies, a partial recovery calculation is required. The allowable input tax is calculated as follows:

- All of the input tax for the period that is directly related to the making of taxable supplies is recoverable;
- None of the input tax for the period that is directly related to supplies that are not taxable supplies is recoverable; and
- A proportion of the input tax for the period that relates both to taxable and non-taxable supplies is recoverable. The recoverable portion is calculated based on the value of taxable supplies made during the period compared with the value of total supplies made during the period;

If a taxable person makes no taxable supplies during the tax period, the recoverable input tax is the proportion, if any, of the input tax for the period that the tax authorities consider to be “fair and reasonable.”

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the excess may be refunded. The refund claim should be submitted within 21 days of the end of the tax period. If this deadline is met, and the refund is unpaid after 6 months, the tax authorities pay interest on the outstanding balance, at a prescribed rate.

G. Invoicing

Sales Invoices and Credit Notes

A taxable person must provide a tax invoice for all taxable supplies made to registrants. A tax invoice is necessary to support a claim for input tax deduction.

A Credit Note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain broadly the same information as a tax invoice.

Exports

VAT is charged at a rate of 0% on supplies of exported goods. However, to qualify as zero-rated, exports must be supported by evidence that confirms the goods have left Barbados.

H. VAT Returns and Payment

VAT Returns

VAT reporting periods are generally two months. However, the tax authorities may assign longer or shorter tax periods if they consider it appropriate. Returns must be completed and filed by the 21st day of the month following the tax period. Any tax due for the period must be remitted with the return.

Penalties

Penalties are assessed for errors and omissions connected with VAT accounting. Interest is generally applicable to unpaid penalties. Late submission of a VAT return renders the taxable person liable to a fine of BDS\$100. In addition, a number of other penalties may apply, including:

- Failure to display a certificate of registration – BDS\$1,000; and
- Failure to notify the tax authorities of changes relating to the registration – BDS\$1,000.

Criminal penalties may also apply in certain circumstances.

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A. At a Glance

| | |
|-------------------------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Names | Belasting over de Toegevoegde Waarde (BTW) Taxe sur la valeur ajoutée (TVA) |
| Date Introduced | 1 January 1971 |
| European Union (EU) Member State | Yes |
| Administered by | Belgian Ministry of Finance http://www.minfin.fgov.be |

| | |
|---|--|
| VAT Rates | |
| Standard | 21% |
| Reduced | 6% and 12% |
| Other | Zero-Rated, Exempt and Exempt with Credit |
| VAT Number Format | BE 456.789.123 |
| VAT Return Periods | Monthly Quarterly (optional if turnover below €500,000) |
| Thresholds | |
| Registration | None |
| Distance Selling | €35,000 |
| Intra-Community Acquisitions | None |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Belgium by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in Belgium; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

Special rules apply to intra-Community transactions involving new means of transport (see the chapter on the European Union) and to the supply of new buildings.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services or intra-Community acquisitions or distance sales, in the course of a business, in Belgium.

No VAT registration threshold applies in Belgium. A taxable person that commences activity in Belgium must notify the Belgian VAT authorities of its liability to register.

Special rules apply to foreign or “non-established” businesses.

Group Registration

VAT grouping is not permitted under the Belgian VAT law. Legal entities that are closely connected must register for VAT individually. This rule applies to non-established businesses that make taxable supplies in Belgium, even if the entities are part of a single VAT group registration in another country.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Belgium. A non-established business that makes supplies of goods or services in Belgium

must register for VAT if it is liable to account for Belgian VAT on the supply, or if it makes intra-Community supplies or acquisitions of goods.

The “reverse charge” applies generally to supplies made by non-established businesses to taxable persons that file periodic VAT returns. Under this provision, the taxable person that receives the supply must account for the Belgian VAT due. If the reverse charge applies, the non-established business is not required to register for Belgian VAT.

A non-established business must, therefore, register for Belgian VAT if it makes any of the following supplies:

- Intra-Community supplies;
- Intra-Community acquisitions;
- Distance sales in excess of the threshold; and
- Supplies of goods and services that are not subject to the reverse charge (for example, goods or services supplied to private persons).

Tax Representatives

Businesses that are established in the European Union may register for VAT without appointing a tax representative. However, EU businesses may opt to appoint a tax representative under certain conditions.

Businesses that are established outside the European Union must appoint a resident tax representative to register for Belgian VAT. The tax representative is jointly liable for VAT debts with the business that it represents.

All non-established businesses must register with the office for foreign taxpayers:

Central VAT office for foreign taxpayers
Registration services
Zaveltoeren, 24th Floor
J. Stevensstraat 7
1000 Brussels

Late Registration Penalties

A penalty of €50 is assessed for late VAT registration. If the late registration results in the late payment of VAT, interest at a rate of 0.8% per month may also be imposed.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services and intra-Community supplies of goods and intangible services supplied to another taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

In Belgium, four rates of VAT currently apply – the standard rate at 21%, two reduced rates at 6% and 12% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Real estate transactions (except “new buildings”)
 Services of public notaries, lawyers, bailiffs
 Services of doctors and dentists
 Finance
 Insurance
 Human organs

Examples of Goods and Services Taxable at 0%

Newspapers
 Tobacco

Examples of Goods and Services Taxable at 6%

Books and magazines
 Certain foodstuffs
 Drugs and medicines
 Water
 Accommodation
 Improvements/renovations to buildings
 Original works of art

Examples of Goods and Services Taxable at 12%

Television licenses
 Public housing

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Belgium, different time of supply rules apply to goods and services.

Goods

The time of supply for goods is defined as one of the following events:

- 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; or
- If the supplier has to install the goods, when the installation is completed.

The time of supply is set at an earlier date if an invoice is issued or payment is received before the goods are put at the buyer’s disposal.

Services

The time of supply for services is when the service is completed.

Continuous Supplies of Services

For a continuous supply of services for which either periodic invoices are issued, or periodic payments are made, the time of supply is at the end of each agreed invoicing or payment period.

Additional Time of Supply Rules

VAT becomes due in respect of a supply of goods or services before the basic tax point if any of the following take place before the basic time of supply:

- An invoice is issued; or
- Payment is received.

Goods Sent on Approval or for Sale or Return

The time of supply for goods sent on approval or for sale or return is when the customer accepts the goods.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition was made. If the supplier issues an invoice prior to this date, the time of supply is when the invoice is issued.

Imported Goods

The time of the supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime. However, the payment of import VAT may be deferred after applying for an individual deferment license.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Belgium, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

50% purchase, lease, hire or maintenance of passenger cars (unless used exclusively for business use)
 50% fuel costs for passenger cars
 Private expenditure
 Business gifts (unless valued at less than €50.00)
 Business entertainment
 Alcohol
 Tobacco
 Hotel accommodation and meals (exceptions may apply)

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire, lease, maintenance and fuel for vans and trucks
 50% of parking costs
 Attending conferences, seminars and training courses
 Expenditure for the collective social benefit of employees
 Business use of home telephone
 Advertising
 Transport
 Books

Partial Exemption

Input tax directly related to the making of exempt supplies is generally not recoverable. If a Belgian taxable person makes both exempt and taxable supplies it may not recover input tax in full. This situation is referred to as “partial exemption.”

In Belgium, the amount of input tax that a partially exempt business may recover may be calculated in one of two ways.

- The first method is a general pro rata calculation, based on the percentage of taxable and exempt turnover. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).
- The second method is a two-stage calculation. The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as “taxable supplies” for these purposes. The next stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered. The calculation may be performed using the general pro rata calculation based on values of supplies made, or it may be based on a special calculation agreed with the VAT authorities.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage changes during the adjustment period or when the use of the capital goods changes.

In Belgium, the capital goods adjustment applies to the following assets for the number of years indicated:

- Buildings (adjusted for a period of 15 years); and
- Other movable capital assets (adjusted for a period of 5 years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{15}$ for land and buildings and $\frac{1}{5}$ for other movable capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may request a refund of the credit by checking the relevant box on the VAT return form. A refund may generally be requested only at the end of a quarter. However, a taxable person that meets certain conditions may receive permission to request monthly VAT refunds.

G. Recovery of VAT by Non-Established Businesses

Belgium refunds VAT incurred by businesses that are not established in Belgium nor 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 European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. Belgium does not exclude any non-EU country from the refund scheme.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June following the calendar year in which the tax was incurred. The application may cover eligible expenses incurred within three years before filing the claim.

Claims may be submitted in Dutch, German or French. Claims in English may also be accepted. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25.

Applications for refunds of Belgian VAT completed in French may be sent to the following address:

Bureau Central de TVA pour Assujettis Etrangers
Rue Stevens 7
TOUR DU SABLON
25ème étage
1000 Bruxelles

Applications for refunds of Belgian VAT completed in German may be sent to the following address:

MWSt-Zentraldienststelle für Ausländische Steuerpflichtige
Stevensstraat 7
TOUR DU SABLON
25. Stock
1000 Brussel

Applications for refunds of Belgian VAT completed in Dutch may be sent to the following address:

Centraal BTW-Kantoor voor Buitenlandse
Belastingplichtigen
Stevensstraat 7
ZAVELTOREN
25 ste verdieping
1000 Brussel

Repayment Interest

If an EU 8th Directive refund is not made within six months, the Belgian VAT authorities pay interest to the claimant at the rate of 0.8% per month. However, interest applies only if the application is filed within six months after the end of the year in which the VAT became due. Interest is not paid to claimants that apply for refunds under the EU 13th Directive scheme.

H. Invoicing

VAT Invoices and Credit Notes

A Belgian taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. With effect from 1 July 2002, invoices may not be issued for supplies that are exempt from VAT (without input tax credit).

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. The amount of VAT credited must be separately itemized on the credit note. It must be cross-referenced to the original VAT invoice and contain the same information. The following statement must appear on the credit note: *VAT to be repaid to the Belgian State to the extent that it was initially deducted.*

Proof of Exports and Intra-Community Supplies

Belgian VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Belgium. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by Customs, showing the supplier as the exporter; and

- For an intra-Community supply, a range of commercial documentation (such as, purchase orders, transport documentation, proof of payment and contracts).

Foreign Currency Invoices

Invoices may be issued in any currency, provided that the amount of VAT due is expressed in Euros (€). If an invoice is issued in foreign currency, the amount of VAT due must be converted to Euros using the latest exchange rate published by the European Central Bank or, if the European Central Bank has published no exchange rate, the latest exchange rate published by the National Bank of Belgium. However, a contractual exchange rate may be used instead, if the exchange rate used is indicated in the contract and on the invoice and if it is actually used to determine payment between the parties.

I. VAT Returns and Payment

VAT Returns

Belgian VAT returns are usually submitted for monthly periods. Taxable persons with a turnover of less than €500,000 may opt to submit returns quarterly. However, taxable persons who file quarterly returns still pay VAT monthly. Return liabilities must be paid in Euros.

Monthly VAT returns and payment are due the 20th day of the month following the return period.

Quarterly VAT returns must be filed by the 20th day following the relevant calendar quarter. The first two monthly payments for the quarter are made on the 20th day of the second and third months of the VAT quarter. The amount due is a prepayment that must equal $\frac{1}{3}$ of the balance of VAT due for the previous quarter. The balancing payment is due with the VAT return.

Penalties

Penalties are assessed for the late submission of a VAT return in the following amounts:

- If no VAT is due, €25 for each month that the VAT return is late, up to a maximum €125; and
- If VAT is due, €50 for each month that a VAT return or payment is late, up to a maximum of €250.

J. 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 calendar year 2005 is €250,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €250,000.

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

The INTRASTAT return period is either monthly or quarterly, depending on whether the taxable person submits monthly or quarterly VAT returns. The submission deadline is the same as for the VAT return, that is, the 20th day of the month following the return period.

A penalty of between €130 and €50,000 may be imposed for late submission or for missing or inaccurate declarations.

EU Sales Lists

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

ESLs must be submitted on a calendar quarterly basis by the 20th day following the end of the quarter.

Penalties may be imposed for late, missing and inaccurate ESLs.

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 July 2002 |
| European Union (EU) Member State | No |
| Member of the South Africa Customs Union | Yes |
| Administered by | Ministry of Finance http://www.gov.bw/government |

| | |
|---|--|
| VAT Rates | |
| Standard | 10% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | C01234567890 for Companies I01234567890 for Individuals P01234567890 for Partnerships T01234567890 for Trusts |
| VAT Return Periods | Monthly (annual taxable supplies in excess of P 12 million) Bi-monthly (annual taxable supplies below P 12 million) |
| Registration Threshold | P 250,000 |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods and services in Botswana by a taxable person;
- Reverse charge services received by a person making exempt supplies in Botswana; and
- The importation of goods from outside Botswana, irrespective of the status of the importer.

Goods that are imported from countries within the Southern Africa Customs Union (that is, Botswana, Lesotho, Namibia, South Africa and Swaziland) are not subject to customs duty.

C. Who Is Liable

Any registered person who makes supplies of taxable goods and services in Botswana in the course of a business is liable for VAT. A person includes the state, a local authority, board, natural person, trust, company and partnership.

The VAT registration threshold is P 250, 000. A taxable person must notify the Botswana VAT authorities of its liability to register for VAT within 21 days of becoming liable.

Group Registration

The Botswana VAT Act does not permit group registration; grouping is permitted only under special circumstances.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in Botswana. A non-established business that makes supplies of goods or services in Botswana must appoint a representative in order to register for VAT. The representative must be resident in Botswana.

Late Registration Penalties

Penalties apply if a person fails to register for VAT within 21 days of becoming liable, in the following amounts:

- If the failure was due to recklessness or made knowingly, a fine not exceeding P 10,000 or imprisonment for a period not exceeding two years, or both;
- In all other cases, a fine not exceeding P 5,000 or imprisonment for a period not exceeding one year, or both; and

- A penalty of twice the output tax payable from the time when the person became liable to the time when the person registered for VAT.

Any offense committed by a corporate body is deemed to have been committed by a person acting as a representative officer, director, general manager, secretary or other similar officer of the company, or by any other person acting in such a capacity.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Persons that make exempt supplies are not entitled to input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Botswana, two rates of VAT currently apply—the standard rate at 10% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the zero rate or exemption.

The following table lists examples of exempt and zero-rated supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Medical services provided in a public medical facility
Supply of prescription drugs
Education
Financial services (unless provided for a fee, charge or commission)
Supplies of goods and services by governmental bodies, local authorities and nonprofit associations

Examples of Goods and Services Taxable at 0%

Exports of goods and services
International transport
Sale of a business as a going concern to a registered person
Fuel for vehicles
Illuminating paraffin
Sorghum and maize meal for human consumption
Intellectual property rights for use outside Botswana for a nominal fee

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Botswana, the basic tax point is the earlier of the issue of an invoice or the receipt of any payment.

Other tax points are used for a variety of situations.

Supplies Between Related Persons

The tax point for supplies between related persons is:

- For a supply of goods, either when the goods are removed or when they are made available to the purchaser or recipient of the goods; and
- For a supply of services, when the services are performed.

Periodic Supplies

The tax point for periodic supplies is the earlier of the date when payment is due, or when payment is received.

Supplies to a Branch or Main Business Outside Botswana

The tax point for goods or services transferred to a branch or main business outside Botswana is when the goods are delivered or when the services are performed.

Imports

The tax point for imported goods depends on the customs regime that applies to the import, as follows:

- For imported goods that must be cleared through customs under the Customs and Excise Duty Act, when the goods are cleared;
- For goods that are imported from the Southern Africa Customs Union, when the goods are brought into Botswana; and
- For goods imported and entered into a Customs and Excise bonded warehouse, when the goods are cleared from the warehouse.

The tax point for imported services is 30 days from the date of importation.

VAT Deferment

VAT registered persons may apply for a VAT deferment account. The importer is authorized to pay VAT on imports 25 days after the end of the month in which the goods are imported. To qualify for a deferment account, the importer must place with the VAT office a bond equal to the greater of P 20,000 or 20% of its estimated monthly imports. Input tax paid through the VAT deferment account may be reclaimed only if it has actually been paid.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is claimed by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services purchased within Botswana and VAT paid on imports of goods and services.

Non-Deductible Input Tax

VAT 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 on certain specified business expenses.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is for purposes of making a taxable supply, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase and hire of passenger cars
Entertainment including food, accommodation and hospitality of any form

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire and maintenance of nonpassenger motor vehicles
Maintenance of passenger motor vehicles

Examples of Items for which Input Tax Is Non-Deductible

Sponsorship which constitutes entertainment

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising

Parking

Mobile phones

Business use of home telephone (but an employer is liable to VAT if it pays for the private telephone bills of the employee)

Mixed Supplies (Partial Exemption)

VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies cannot recover VAT tax in full. This situation is referred to as having “mixed supplies.”

VAT that relates to making mixed supplies must be apportioned using a method acceptable to the VAT authorities, to allocate the VAT between taxable supplies and exempt supplies. Input tax related to taxable supplies may be deducted in full. VAT related to exempt supplies may not be deducted. If taxable supplies exceed 90% of the total supplies made by a registered person, all the VAT incurred by the registered person may be claimed as input tax.

Refunds

A VAT-registered person is entitled to a refund of excess input tax if input tax exceeds output tax in a tax period. The VAT authorities must pay VAT refunds within the following deadlines:

- One calendar month following the due date of the return for exporters, operators of VAT manufacturing warehouses and international financial service center companies; and
- Two calendar months following the due date of the return for all other registered persons.

Before any refund is paid, the input tax credit is applied against any tax, levy, interest or penalty payable by the registered person (under the terms of the VAT Act, the Customs and Excise Duty Act, the Income Tax Act or the Sales Tax Act).

G. Recovery of VAT by NonResidents

Nonresidents may claim VAT paid on goods bought in Botswana that are exported as “accompanied baggage” with the claimant, provided the VAT paid exceeds P 500. Otherwise, only entities that are registered for VAT in Botswana may claim refunds of input tax.

H. Invoicing**VAT Invoices and Credit Notes**

A registered person must provide a VAT tax invoice for all taxable supplies made, including exports. A VAT tax credit note may be used to reduce the VAT charged on a supply of goods or services. Tax credit and debit notes must show the same information as a tax invoice.

Proof of Exports

Goods exported from Botswana are zero-rated. However, to qualify for a zero rating, exports must be supported by evidence that proves the goods left Botswana.

Foreign Currency Invoices

A Botswana VAT tax invoice must be issued in pula (P). If an amount is expressed in a currency other than pula, the following rules are applied for converting the VAT and value amounts to local currency:

- For imports, the amount must be converted at the exchange rate determined by the Customs and Excise Duty Act; and
- For other supplies, the amount must be converted at the exchange rate when the amount is taken into account for VAT purposes.

I. VAT Returns and Payment**VAT Returns**

The VAT tax period is one month for registered persons with annual taxable supplies in excess of P 12 million and two months for registered persons with annual taxable supplies below P 12 million.

Returns must be filed within 25 days after the end of the tax period. Payment is due in full by the same date. If the due date falls on a Saturday, Sunday or public holiday, the due date is the last business day before the holiday.

Penalties

A penalty is imposed for late payment of VAT at the following rate:

- P 50 per day or part thereof; or
- 10% of the outstanding tax for each month or part thereof, whichever is greater.

The penalty is limited to the amount of the tax due.

Interest is charged on outstanding tax or penalties at a rate of 2% per month or part thereof, compounded monthly.

Penalties may also apply to a range of other offenses, including making false statements and obstructing a VAT officer. In some cases, penalties may include imprisonment for offences committed knowingly or recklessly.

Offenses by Corporate Bodies

Any offense committed by a corporate body is deemed to have been committed by a person acting in a responsible capacity, such as a representative officer, a director, a general manager, a company secretary or any similar officer of the company or any other person acting in such a capacity.

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A. At a Glance

| | |
|-------------------------------------|--|
| Names of the Taxes | State Value Added Tax (ICMS) Federal Value Added Tax (IPI) Municipal Service Tax (ISS) Federal Gross Receipt Contributions (PIS-PASEP / COFINS) |
| Local Names | Imposto sobre Circulação de Mercadorias e Serviços (ICMS) Imposto sobre Produtos Industrializados (IPI) Imposto sobre Serviços (ISS) Contribuição para os Programas de Integração Social e de Formação do Patrimônio Público (PIS-PASEP) Contribuição para o Financiamento Da Seguridade Social (COFINS) |
| Date Introduced | |
| ICMS | 1989 - Updated 2000 |
| IPI | 1964 - Updated 2002 |
| ISS | 1968 – Updated 2003 |
| PIS-PASEP | 1970 – Updated 2004 |
| COFINS | 1991 – Updated 2004 |
| European Union (EU) Member State | No |
| Administered by | Ministry of Finance http://www.fazenda.gov.br Internal Revenue Service http://www.receita.fazenda.gov.br |
| VAT Rates | |
| ICMS | Between 0% and 30% (for supplies in the same State) Between 7% and 12% (for supplies made to a taxable person in a different State) |

| | |
|---|--|
| IPI | Between 0% and 330% (depending on the IPI Tariff Table classification for the goods) |
| ISS | Between 2% and 5% (depending on the municipality) |
| PIS-PASEP | 0,65% (for taxpayers taxed under the presumed income tax method of calculation, under the cumulative system); 1,65% (for taxpayers taxed under the annual actual income tax method, under the non-cumulative system) |
| COFINS | 3% (for taxpayers taxed under the presumed income tax method of calculation, under the cumulative system); 7,6% (for taxpayers taxed under the annual actual income tax method, under the non-cumulative system) |
| Thresholds | |
| Registration (ICMS, IPI and ISS) | Commencement of taxable activity |
| PIS-PASEP/COFINS | Commencement of sales activity (including receipt of non-operational revenue, such as interest). |
| VAT Return Periods | |
| ICMS | Monthly |
| IPI | Every three months |
| ISS | Monthly (depending on the municipality where the taxpayer is located) |
| PIS-PASEP/COFINS | Every three months |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

In Brazil, five types of Value Added Tax (VAT) apply – the State VAT (ICMS), the Federal VAT (IPI), the Municipal Service Tax (ISS) and Gross Receipt Contributions (PIS-PASEP and COFINS).

ICMS

The State VAT (ICMS) is levied by the individual states in Brazil, which set the level of taxation – although the Brazilian federal government may set the minimum rate.

ICMS applies to the following transactions carried out in Brazil, even if the transaction begins abroad:

- The circulation of goods;
- The importation of goods;
- The supply of transportation between states and between municipalities;
- The supply of communication services; and
- The supply of electricity.

Exports of manufactured goods and of raw materials are exempt from ICMS.

IPI

The Federal VAT (IPI) is charged by Brazil's federal government on national and foreign "finished goods." Finished goods are goods produced as a result of an industrial process, even if the process is incomplete, partial or intermediary. IPI applies to the following taxable events:

- The shipment of finished goods from an industrial establishment (or similar establishment) in Brazil; and
- The customs clearance of finished goods of foreign origin.

The IPI law provides for several "tax incentives" if the shipment of goods is related to an export, a sale to a trading company or to plant expansion plans. IPI tax incentives include the exemption of operations and the granting of tax credits.

ISS

The Municipal Service Tax (ISS) is a form of sales tax levied by municipalities in Brazil. It applies to the supply of any services that are not otherwise taxable by the state authorities (ICMS). The general list of taxable services is outlined in federal law (Complementary Law) with the specific services listed in each municipal law.

The law governing ISS has been substantially changed in recent years. Among the changes, with effect from January 2004, a foreign company providing services fully provided outside Brazil for the benefit of a Brazilian recipient may be subject to ISS (withheld by the Brazilian entity), even if a non resident pays for the services.

ISS is a single-stage tax with no right of recovery for ISS previously paid. Therefore, irrespective of status, the recipient of a service subject to ISS bears the tax paid as a cost.

In general, ISS is due to the municipality where the service provider is located. An exception applies to construction services. ISS is levied on construction services in the city where the construction takes place.

PIS-PASEP and COFINS

PIS and COFINS are social contributions based on turnover, which are levied on companies' gross revenue, on a monthly basis. Exports are not subject to PIS and COFINS.

Significant new tax rules were recently enacted for these contributions. Under the new rules, among other measures, with effect from 1 May 2004, import operations are also subject to PIS-PASEP and COFINS.

PIS-PASEP and COFINS rates may vary depending on the company's activity and on the revenue received (see Section D *VAT Rates*).

C. Who Is Liable

ICMS Taxpayer

An ICMS taxpayer is any person or legal entity that, on a regular basis, undertakes the shipment or importation of goods or supplies of communication and interstate and inter-municipal transport services. No turnover threshold applies. Any person or entity that intends to supply goods or services subject to ICMS must register in the roll of ICMS taxpayers before commencing activity.

IPI Taxpayer

An IPI taxpayer is any person or legal entity that carries out industrial processing of goods on a regular basis or imports goods from abroad. No turnover threshold applies. Any person or entity that carries on activities subject to IPI must register in the roll of IPI taxpayers before commencing activity.

ISS Taxpayer

An ISS taxpayer is any person or legal entity that supplies any services listed in the ISS law on a regular basis. No turnover threshold applies. Any person or entity that carries on activities subject to ISS must register in the roll of ISS taxpayers before commencing activity.

PIS-PASEP and COFINS

A PIS and COFINS taxpayer is any company that has business activities. Contributions are levied on companies' gross revenue, on a monthly basis.

Group Registration

VAT grouping is not allowed under Brazilian VAT laws.

Non-Established Businesses

A "non-established business" is a business that has no fixed establishment in the territory of Brazil. A non-established business is not permitted to register for VAT in Brazil. Only entities that are established under Brazilian law may become taxpayers for ICMS, IPI, ISS, PIS-PASEP or COFINS.

Late Registration Penalties

The penalty for late registration for ICMS is a fine, which may vary from 1% to 80% on the value of the transaction(s) that occurred prior to registration. Penalties also relate to a number of IPI, PIS-PASEP, COFINS and ISS errors, including failure to register (see Section H *VAT Returns and Payment*).

D. VAT Rates

ICMS

ICMS rates vary from state to state. Brazil has 26 states. For supplies made to a customer located in the same state as the supplier, rates typically range from 4% to 30%. The standard rate of ICMS is 17% (18% in São Paulo and 19% in Rio de Janeiro).

ICMS may also be charged at 0%. Reduced rates generally apply to items of basic necessity, such as food. In addition, some items, such as medicines, are exempt from ICMS.

The rate of ICMS that applies to imported goods is the same rate that applies to supplies of goods made within the state, except that the tax base for imported goods includes any IPI payable at import. ICMS does not apply to exported goods.

The ICMS rate on a supply of goods or services made to an ICMS taxpayer resident in a different state from the state where the supplier is resident, depends on where the customer is resident, as follows:

- A rate of 7% generally applies for supplies made to taxpayers resident in states located in the northern, northeastern and central eastern regions of Brazil and in the state of Espírito Santo; and
- A rate of 12% generally applies for supplies made to taxpayers resident in the states in the southern and southeastern regions of Brazil (except in the state of Espírito Santo).

If the supply is made to a customer resident in another state who is not an ICMS taxpayer, the supply is taxed at the same rate as transactions made within the supplier's state.

IPI

IPI rates vary from zero rate (0%) to 330%. The rate of IPI chargeable on a supply of finished goods depends on the classification of the goods under the IPI Tariff Table. The table contains 9,728 different classification codes. The IPI Tariff Table uses the same tariff classification system as the Brazilian External Tariff Code (TEC or BTEC).

The rate of IPI varies, depending on how essential the product is considered to be. For example, the zero rate of IPI applies to essential products such as rice and wheat flour, a low rate of IPI (8%) applies to steel pipes and the highest rate of IPI (330%) applies to "superfluous" or luxury products such as cigarettes. Some goods are exempt from IPI. In other cases, essential products may benefit from a reduced tax base (which reduces the effective rate of tax), or a deferral or suspension of the tax due.

ISS

The rate of ISS varies among municipalities. Brazil has 5,564 municipalities. The ISS law sets the maximum rate at 5%. The rate of ISS is generally between 2% (the lowest rate) and 5% and depends on the type of service and the municipality where it is provided.

PIS-PASEP and COFINS

The PIS-PASEP rate is 0.65% for taxpayers taxed under the presumed income tax method of calculation, under the cumulative system and 1.65% for taxpayers taxed under the annual actual income tax method, under the non-cumulative system (without credit entitlement and with credit entitlement respectively).

The COFINS rate is 3% for taxpayers taxed under the presumed income tax method of calculation, under the cumulative system and 7.6% for taxpayers taxed under the annual actual income tax method, under the non-cumulative system).

Some companies and products are subject to special tax treatment for PIS-PASEP and COFINS, which apply different rates for some products. The automotive industry, for example, pays

PIS-PASEP at a rate of 1.47% and COFINS at a rate of 6.79% on specific products. Other industries, such as the pharmaceutical, cosmetics and the beverage industries, also have special treatment for PIS-PASEP and COFINS.

E. Recovery of VAT by Taxable Persons

ICMS

An ICMS taxpayer may recover input tax, that is, obtain a credit for VAT charged on goods and services supplied to it for the purposes of making supplies. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. ICMS may not be recovered before a taxpayer begins making taxable supplies.

A valid VAT invoice or customs document must generally accompany a claim for input tax.

No ICMS may be claimed before a business registers for ICMS. However, a business may register for ICMS as soon as it intends to carry out taxable activities. Input tax deduction is not granted until taxable activities commence. Prior to making taxable supplies, the taxpayer must record purchase invoices in a "Deferred Asset" account. Once taxable supplies begin, the deferred ICMS may be recovered. No time limit applies to the period between registration and commencing activity.

IPI

IPI taxpayers deduct IPI paid as input tax against IPI charged as output tax. The rules are similar to those for ICMS.

ISS

ISS taxpayers do not recover any ISS paid as input tax. Therefore, ISS paid is borne as a cost by all recipients of services subject to the tax.

PIS-PASEP and COFINS

PIS-PASEP and COFINS taxpayers who use the non-cumulative system are entitled to calculate PIS-PASEP and COFINS credits to offset PIS-PASEP and COFINS payments. Credits are limited to certain costs.

Non-Deductible Input Tax

For ICMS and IPI purposes, 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 or general overhead costs), or on goods acquired prior to registration as a taxpayer.

Refunds

If the amount of input tax recoverable exceeds the amount of output tax payable, the excess is generally not refunded. However, the excess may be used to offset tax payments or may, in certain cases, be transferred to a third party for consideration.

F. Recovery of VAT by Non-Established Businesses

Brazil does not refund any form of VAT incurred by businesses that are neither established nor registered for VAT in Brazil.

G. Invoicing

VAT Invoices and Credit Notes

An ICMS, IPI or ISS taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax deduction for ICMS and IPI.

A credit note (input invoice) must contain the same information as a VAT invoice.

ICMS – Proof of Exports

ICMS is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence confirming that the goods have left Brazil. Suitable evidence includes an invoice, a customs certificate of origin and an export declaration.

Foreign Currency Invoices

All VAT invoices must be issued in Brazilian reais (R\$).

H. VAT Returns and Payment

ICMS

ICMS returns must be submitted for monthly periods. The VAT return consists of two parts: a payment receipt (GARE) and an ICMS declaration detailing all ICMS credits and debits during the period. The specific date for submission depends on the taxpayer's business activities.

Return liabilities must be paid in Brazilian reais.

IPI

IPI is generally payable every 15 days (depending on the type of products sold), using a payment receipt (DARF). Return liabilities must be paid in Brazilian reais. IPI returns must be submitted every three months (DCTF).

ISS

ISS is due monthly. A specific payment and return form must be completed each month and must be retained for a period of five years.

ISS payments and returns are generally due monthly, but the rules differ between municipalities (there are in excess of 5500 municipalities). All documents must be retained for a period of five years.

PIS-PASEP and COFINS

PIS-PASEP and COFINS taxpayers must produce the DCTF (Declaration for Federal Taxes and Contributions) and provide it to federal tax authorities every three months. Taxpayers must also provide the DACON (Declaration for PIS and COFINS purposes) to federal tax authorities every three months.

PIS-PASEP and COFINS payments are due monthly.

Penalties

For ICMS purposes, penalties are assessed for errors and omissions connected with the taxpayer's primary obligation that is,

(payment of tax) or secondary obligations (such as proper book-keeping), including the following errors:

- Late or omitted payment of tax – a fine of between 50% and 150% of the tax due;
- Entitlement to a tax credit – a fine of between 10% and 100% of the tax credit;
- Incorrect documents related to the shipping, transporting, receiving or warehousing of goods or inventory and to supplies of services – a fine of between 20% and 60% of the value of the transaction; and
- Incorrect tax documents or invoices and records – a fine of between 1% and 100% of the value of the transaction.

For other ICMS errors or misdeclarations, the VAT authorities calculate the appropriate fine, using the official monthly index published by the State Revenue Secretariat.

Interest is charged in addition to any fine, depending on each ICMS State Ruling. The rate applicable varies monthly.

The penalty for an error connected with IPI and PIS-PASEP and COFINS is subject to a fine of at least 75% of the tax due.

ISS penalties may vary depending on the municipality and on the type of irregularity. In São Paulo municipality, the fine varies from 10% to 100% of the ISS due.

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A. At a Glance

| | |
|---------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 April 1994 |
| European Union (EU) | |
| Member State | No |
| Administered by | The Ministry of Finance http://www.minfin.government.bg |
| VAT Rates | |
| Standard | 20% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 1234567890 |

| | |
|---|---------------------------|
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | BGN 50,000 |
| Recovery of VAT by Non-Established Businesses | Yes (but very restricted) |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Bulgaria by a taxable person;
- Reverse charge services received by a Bulgarian taxable person; and
- The importation of goods into Bulgaria, irrespective of the status of the importer.

C. Who Is Liable

A taxable person is a business entity or individual that makes taxable supplies of goods or services, in the course of a business, in Bulgaria. This rule applies irrespective of whether the supplier is a local or foreign entity or an individual.

With effect from 1 January 2003, the VAT registration threshold is BGN 50,000 (it was previously BGN 75,000) of “taxable turnover” in any 12 consecutive months. If a business exceeds this threshold, it must register for VAT within 14 days. “Taxable turnover” for these purposes includes only supplies chargeable at the standard rate of VAT (20%), it does not include turnover from zero-rated or exempt supplies. Special rules apply to “non-established” businesses.

Voluntary Registration

The voluntary registration threshold is currently BGN 50,000. Businesses whose “common taxable turnover” is above this threshold in any period of 12 consecutive months may register for VAT voluntarily. “Common taxable turnover” includes supplies subject to VAT at the standard rate (20%) and supplies subject to tax at the zero rate (0%). Voluntary VAT registration is also possible for companies incorporated in Bulgaria that have authorized capital of at least BGN 500,000.

Unincorporated Partnerships

If two or more entities conclude a contract to perform a joint activity, the contract is deemed to form an unincorporated partnership according to Bulgarian tax law. This unincorporated partnership is treated as a legal person, separate from the founding entities that constitute it. The unincorporated partnership is liable to all the general rules of the Bulgarian VAT law, including those relating to VAT registration, VAT deregistration and reporting supplies. Therefore, VAT registration of the unincorporated partnership does not lead to VAT registration of the entities that have concluded the contract for joint activity.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Bulgaria. A non-established business must register for VAT in Bulgaria if it makes taxable supplies of goods or services.

Tax Representative

A non-established business must appoint a resident tax representative to register for VAT in Bulgaria. The representative assumes joint and unlimited liability for the VAT liabilities of the non-established business. The tax representative must be appointed by means of a notarized power of attorney.

Deregistration

A taxable person that ceases to make taxable supplies must deregister. In addition, if a taxable person's taxable turnover within the previous 18 months has fallen below the limit for voluntary registration (BGN 50,000), the taxable person must deregister.

Late Registration Penalties

If a taxable person fails to register for VAT, a penalty may be assessed equal to twice the amount of VAT that should have been charged (with a minimum fine of BGN 500). A penalty of between BGN 1,000 to BGN 5,000 may be assessed for failure to deregister on time.

D. VAT Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT. The term "exempt supplies" is used for supplies of goods and services not liable to VAT which do not give rise to a right of input tax deduction.

In Bulgaria, there are two rates of VAT – the standard rate at 20% and the zero rate (0%). No VAT is chargeable for zero-rated supplies but the taxable person is entitled to deduct related input tax (see Section F *Recovery of VAT by Taxable Persons*).

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Certain transactions in land
Leasing of residential buildings
Financial services
Insurance and reinsurance services
Health and welfare
Education and cultural services
Legal services
Gifts
Betting and gaming
Agricultural goods and services

Examples of Supplies of Goods and Services Taxable at 0%

Exported goods
Exported services
Supplies of loans, securities, and debt and similar transactions
Insurance and reinsurance in line with the Insurance Act

E. Time of Supply

The time when VAT becomes due is called the "time of supply" or "tax point." The time of supply for goods is the earlier of the

transfer of ownership of the goods or the date of payment. The time of supply for services is the earlier of the completion of the service or the date of payment.

The payment of tax may be postponed to the tax period following the basic time of supply. However, if a taxable person uses this facility, it must pay a fine of 25% of the tax due (with a minimum payment of BGN 50).

Deferred Ownership Transfer

If the transfer of ownership in goods is deferred until the fulfillment of certain conditions (without a down payment) the time of supply is when the conditions for the transfer of ownership are fulfilled, or when the ownership is transferred under normal circumstances.

Leased Assets

The time of supply for assets supplied through a financial leasing contract is the date of each lease payment or the date when the payment becomes due, whichever is the earlier.

Continuous Supplies

The time of supply for periodic or continuous supplies of services is the date of each payment or the date when the payment is due, whichever is the earlier.

Reverse Charge Services

If a non-established business makes certain supplies of services to a business established in Bulgaria, the “reverse charge” applies. This means that the recipient must self assess for the Bulgarian VAT due on the supply.

The reverse charge applies to services supplied by a non-established service provider to a taxable recipient in Bulgaria if all of the following conditions apply:

- The place of supply for the service is Bulgaria;
- The service is taxable;
- The service is related to the provision of exempt supplies made by the recipient; and
- The non-established supplier is not registered for VAT in Bulgaria.

The recipient of the service must account for and pay Bulgarian VAT on the supply, using a special form. The Bulgarian recipient of the service may treat the self-assessed VAT as input tax (that is, VAT deductible on purchases). If the recipient makes both taxable and exempt supplies, the self-assessed VAT is recovered in accordance with the partial exemption rules (see Section F *Recovery of VAT by Taxable Persons*).

The time of supply for reverse charge services is when the service is supplied, or the date when payment is made, whichever is earlier.

Imported Goods

The basic tax point for imported goods is when the goods leave customs control.

Postponed Accounting for Imports

A taxable person may obtain permission to postpone payment of VAT on goods imported for investment projects, provided certain conditions are met (such as, the taxable person has no outstanding VAT liabilities and the investment project is approved by the Ministry of Finance).

Under the postponed accounting regime, the imported goods may be released from customs control without payment of VAT. Instead, the taxable person accrues the import VAT due and treats it as output tax (that is, VAT on sales). At the same time, the taxable person may deduct the accrued import VAT as input tax (that is, VAT on purchases which is deductible from output tax). If the taxable person is able to recover the input tax in full, no actual payment is made.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied within Bulgaria, VAT paid on imports of goods and any VAT self-assessed for reverse charge services received from outside Bulgaria.

The general rule is that input VAT is deductible from output VAT charged in the same VAT period. Input tax may be claimed in Bulgaria only if the supplier is VAT registered person and has been paid in full by the due date for the return. If the amount of input VAT exceeds the output VAT in the period, the excess may be recovered as a repayment.

The amount of VAT reclaimed must be detailed on a valid VAT invoice.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax is Non-deductible

Hotel accommodation
Nonbusiness expenditure
Business gifts
Purchase, lease or hire of a car, fuel, and parking and maintenance costs (unless the car is used for core business activities)

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease, hire of vans and trucks
Fuel for vans and trucks
Mobile phones
Conferences and seminars
Advertising
Books

Examples of Items for which Input Tax is Non-deductible

Fuel for cars
 Taxi services
 Business and employee entertainment
 Home telephone costs
 Taxis
 Travel expenses

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Private use of business assets (output VAT is chargeable)

Partial Exemption

Input tax directly related to making exempt supplies is not recoverable. If a Bulgarian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption. Zero-rated supplies are treated as “taxable supplies” for these purposes.

The amount of input tax that may be deducted is calculated based on the percentage of taxable supplies to total supplies made each month. The monthly calculation is then adjusted annually. The recovery percentage is rounded up to 7 decimal places.

Refunds

If the input tax recoverable in a return period is greater than the output tax chargeable in the same VAT return period, a taxable person has an input tax credit. A taxable person may declare and claim a refund of the VAT credit through the submission of its VAT return to the tax authorities.

The VAT credit must be reimbursed within 45 days from the date when the VAT return is submitted if zero-rated taxable supplies exceed 30% of the total value of supplies made in the tax period. Otherwise, the credit must be used to offset output tax. The offset applies for three months, starting with the month following the month when the VAT return was submitted. If the taxable person still has a credit after three months, it may be request a refund from the tax authorities within 45 days.

G. Recovery of VAT by Non-Established Businesses

The Bulgarian VAT authorities refund VAT incurred by businesses that are neither established in Bulgaria nor registered for VAT there. An establishment for these purposes includes any of the following: a registered trade representative office, a branch, an office, a bureau, a studio, a plant, a workshop, a retail store, a trade warehouse, a service station, a site for assembling goods, a construction site, a mine, a quarry, a drill, an oil or gas well or spring or other premises related to exploiting natural resources, any premises (owned, rented or available for use) or any other place from which the person carries out, fully or partially, independent business activity in the territory of the country.

Bulgaria applies the reciprocity principle to refunds, that is, refunds are granted to businesses established in any country that refunds VAT to Bulgarian businesses.

The claimant must satisfy all of the following conditions:

- It has not made any supplies of goods or services for which the place of supply is Bulgaria, except for some supplies of services excluded by the VAT law;
- It must be registered for VAT or a similar tax in the country where it is established (that is, where it has its registered address or place of management); and
- It must be established in a country that refunds VAT to Bulgarian businesses and that is included in a list approved by the Minister of Finance and the Minister of Foreign Affairs.

The claimant may make the following supplies in Bulgaria:

- Services related to conferences, seminars, congresses, symposia and similar events;
- Services related to exhibitions, trade fairs and similar events; and
- Transportation services.

Refund Application

A non-established business is allowed to claim VAT to a limited extent, as determined by special regulations. The right to a VAT refund arises on the date the VAT invoice (or debit note) is issued for the supply.

Applications for refunds may generally be made between 1 January and 30 June of the year following the calendar year for which the claim is made. The minimum claim amount is BGN 500. However, if the total VAT refund exceeds BGN 1,000 during the year, the non-established business may claim quarterly refunds, in the month following the end of each quarter.

Applications for refunds must be completed in Bulgarian. Claims are paid in Bulgarian lev (BGN) into a bank account held in Bulgaria.

A non-established business must appoint a tax representative or agent authorized to represent it in its dealings with the Bulgarian VAT authorities. The competent office for the claim is the Tax Directorate for the place where the agent is registered for VAT.

The agent must present the following documents to support the refund application:

- An application for a VAT refund by the foreign person;
- A declaration by the non-established business stating that it does not have an establishment in Bulgaria;
- A certificate issued by the VAT authorities in the country where the business is established, certifying its status as a taxable person for the calendar year for which the VAT refund arises in Bulgaria. The certificate must be accompanied by a legalized translation in Bulgarian;
- Original invoices for the supplies for which a VAT refund is claimed; and
- A written power of attorney authorizing the agent to act on behalf of the non-established business for the purposes of the VAT refund procedure.

The VAT authorities may require more information from either the non-established claimant or its agent.

Repayment Interest

If the claim is accepted, the VAT authorities must refund the amount within six months of the date of the VAT refund application. Penalty interest is paid on late repayments (the penalty interest rate is currently the base interest rate quoted by the Bulgarian National Bank plus 10%).

Overpaid Refunds

If Bulgarian VAT is refunded to a non-established person incorrectly it must be repaid to the VAT authorities, together with penalty interest (the penalty interest rate is currently the base interest rate quoted by the Bulgarian National Bank plus 10%). The non-established business and its agent are jointly responsible for the VAT amount to be repaid and any penalty interest due.

H. Invoicing

VAT Invoices and Credit Notes

A Bulgarian taxable person must provide a VAT invoice for all taxable supplies made and for exports.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The document must be clearly marked "credit note" and refer to the original invoice. A credit note must also indicate the reason for the correction and any new items arising from the correction.

Proof of Exports

Bulgarian VAT is chargeable at the zero rate (0%) on exports of goods. An export supply must be accompanied by evidence proving that the goods have left Bulgaria. Suitable evidence includes the following documents:

- An invoice to the foreign customer;
- The export customs declaration;
- Transportation documents; and
- Evidence of payment from a foreign customer or on its behalf.

For a supply of goods, it is important to prove that the physical export is related to a change in the title to the goods. The Bulgarian VAT law and VAT regulations also contain lists of specific documents required for each type of export transaction (for example, for international transport, tourism and processing of goods under inward processing regime).

Foreign Currency Invoices

If an invoice is issued in a foreign currency, the taxable value must be converted to Bulgarian lev (BGN) using the official exchange rate quoted by the National Bank of Bulgaria on the date of the invoice. An internal invoice showing the export transaction amount converted to Bulgarian lev must be issued upon receipt of an invoice in a foreign currency.

I. VAT Returns and Payment

VAT Returns

Bulgarian taxable persons file VAT returns monthly. VAT returns must be filed by the 14th day of the month following the tax period. Payment in full is required on the same date. VAT returns lia-

bilities must be paid in Bulgarian leva. With effect from 1 January 2003, VAT returns may be filed electronically.

Penalties

The penalty for failing to submit VAT returns or electronic information on time, or for submitting inaccurate VAT information, ranges from BGN 250 to BGN 2,500.

The penalty for failing to charge VAT is double the amount of VAT uncharged, with a minimum penalty of BGN 200.

The penalty for failing to produce VAT documents ranges from BGN 200 to BGN 10,000.

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A. At a Glance

| | |
|--|--|
| Name of the Tax | Goods and Services Tax (GST) |
| Date Introduced | 1 January 1991 |
| Name of the Tax | Harmonized Services Tax (HST) |
| Date Introduced | 1 April 1997 |
| Administered by | Canada Revenue Agency http://www.cra-arc.gc.ca |
| Sales Tax Rates | |
| GST Standard | 7% |
| HST Standard | 15% |
| Other | Zero-Rate and Exempt |
| GST/HST Number Format | 15 characters (9 numeric/2 alpha/ 4 numeric) |
| GST/HST Return Periods | Monthly (turnover in excess of C\$6 million, optional for other registrants) Quarterly (turnover between C\$500,000 to C\$6 million, optional for other registrants) Annual (turnover below C\$500,000) |
| Thresholds | |
| Registration | C\$30,000 |
| Recovery of GST or HST by Non-Established Businesses | No |

B. Scope of the Tax

Canada's federal government imposes a 7% sales tax known as the Goods and Services Tax (GST). When a supply is made in a "participating province," the tax rate is increased by an additional 8%. The combined 15% tax is known as the Harmonized Services Tax (HST). The "participating provinces" Nova Scotia, New Brunswick, and Newfoundland and Labrador repealed their retail sales taxes and now share in the revenues generated by the federal tax. HST applies to the same base of goods and services that are subject to GST. For the remainder of this chapter, GST and HST are collectively referred to as GST.

GST applies to taxable supplies of property and services made in Canada in the course of a business, and to imports of goods into Canada. Unlike traditional Value Added Taxes, GST is designed as a tax on the purchaser, with an obligation imposed on the vendor to collect the GST as an agent for the Crown.

The term "property" includes all property, whether real or personal, movable or immovable, tangible or intangible, corporeal or incorporeal, any right or interest of any kind, and shares and *choses in action*. But it does not include money. The term "tangible personal property" generally means goods.

The term "services" means anything other than property or money. It does not include services provided by an employee in the course of, or in relation to, an office or employment.

For the purposes of GST, the territory of Canada includes the following areas:

- The seabed and subsoil of the submarine areas adjacent to the coast of Canada for which the government of Canada or of a Province may grant rights to explore for, or exploit, any minerals (including petroleum, natural gas, related hydrocarbons, sand and gravel); and
- The seas and airspace above those submarine areas with respect to any activities carried on in connection with the exploration for, or exploitation of, minerals.

C. Who Is Liable

Every person who makes taxable supplies of goods or services in Canada in the course of a commercial activity is required to register for GST purposes, except in the following circumstances:

- The person qualifies as a “small supplier”;
- The person’s only commercial activity is the supply of real property by way of sale other than in the course of a business; or
- The person is a nonresident who does not carry on any business in Canada.

“Commercial activity” means any of the following activities:

- Any business, except to the extent the business involves making exempt supplies;
- An adventure in the nature of trade, except to the extent the activity involves making exempt supplies; and
- The supply of real property, other than an exempt supply.

For individuals and partnerships of individuals, the activity must also be carried on with a reasonable expectation of profit to constitute a commercial activity.

The definition of a “person” includes individuals, partnerships, corporations, trusts, the estate of a deceased individual, or a legal body such as a society, union, club, association, commission, or other organization of any kind.

A “registrant” is any person that is registered or is required to be registered for GST.

Small Supplier Threshold

A “small supplier” is a person whose annual worldwide taxable and zero-rated supplies are less than C\$30,000 in the four preceding calendar quarters. The C\$30,000 threshold is determined by reference to the aggregate of taxable and zero-rated supplies made by the person and any associates of the person in the period.

A person whose activities exceed C\$30,000 must register for GST within one month of making the first supply that causes its turnover to exceed the threshold. However, if a person exceeds the C\$30,000 threshold in a single calendar quarter, it ceases to qualify as a small supplier beginning with the supply that causes it to exceed the threshold.

The small supplier threshold for a public service body (such as a charity, nonprofit organization, municipality, university, public college, school authority or hospital authority) is generally C\$50,000.

The small supplier rules do not apply to the following businesses:

- Persons who solicit orders for publications to be delivered in Canada by mail or courier;
- Taxi operators; and
- Nonresidents who sell taxable supplies of admissions in Canada for a place of amusement, a seminar, an activity or an event held in Canada.

Voluntary Registration

A small supplier is not obliged to register for GST, but may do so voluntarily.

Group Registration

GST group registration is not permitted. Legal entities that are closely connected must register for GST individually.

However, closely related corporations and partnerships may elect to deem supplies made between members of the group as being made for no consideration, if the members are engaged exclusively in making taxable and zero-rated supplies. This provision effectively zero rates sales between group members.

For these purposes, closely related companies and partnerships must be resident in Canada and must be registered for GST. For two corporations or partnerships to be treated as “closely related,” one must be a 90% subsidiary of the other, or they must both be 90% controlled by another corporation or partnership, either directly or indirectly. However, these rules do not apply to partnerships whose members are not corporations.

Special rules apply if a closely related group includes a financial institution.

Nonresident Businesses

A nonresident business is not required to appoint a tax representative in Canada in order to register for GST. However, a nonresident business with no permanent establishment in Canada is required to provide a security deposit to the GST authorities to obtain registration.

Generally, the amount of security is 50% of the estimated net tax (either positive or negative) for the first year of operations in Canada. The minimum acceptable amount of security is C\$5,000, and the maximum is C\$1 million. Security may be in the form of cash, certified check, money order or bond. All security deposits are payable in Canadian dollars (C\$).

A nonresident business may apply in writing to have the security requirement waived if it satisfies both of the following conditions:

- Its taxable supplies in Canada do not exceed C\$100,000 annually; and
- Its net GST remittance does not exceed C\$3,000 annually.

Imported Taxable Supplies

Recipients of imported services and imported intangible property are required to self-assess GST. The Canadian recipient must self-assess and remit the tax if these supplies are for use in Canada, unless they will be used exclusively in a commercial activity.

D. GST Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to GST. The 15% HST rate applies to supplies of property and services made in a “participating province” (see Section B *Scope of the Tax*). The 7% GST rate applies to supplies of property and services made elsewhere in Canada. A zero rate (0%) applies to a limited range of supplies of property and services. While tax does not apply to zero-rated supplies, a registrant may claim input tax credits in respect of these supplies. As a result, zero-rated supplies bear no tax.

Certain supplies of goods and services, referred to as “exempt supplies,” are within the scope of GST, but are not liable to tax. However, these exempt supplies do not give rise to input tax credits.

The following table lists examples of exempt and zero-rated supplies of property and services. This list is not exhaustive.

Examples of Exempt Supplies

Supplies of used residential property
Financial transactions
Most supplies by charities and public sector bodies
Healthcare
Education

Examples of Zero-Rated Supplies

Exports of goods and services
Basic foodstuffs
International transportation
Prescription drugs
Medical devices
Supplies related to agriculture and fishing

E. Time of Supply

The time when GST becomes due is called the “time of supply.” The general rule is that tax is payable by the recipient on the earlier of the day when either consideration for a taxable supply is paid or the consideration becomes due. The consideration is considered to be paid when the supplier receives the money (or other form of agreed consideration) for the supply. The consideration for a taxable supply is deemed to become due on the earliest of the following dates:

- When the supplier issues an invoice in respect of the supply;
- The date of the invoice;
- When the consideration falls due pursuant to an agreement in writing; and
- If there is an undue delay in issuing an invoice for services, when the supplier would have issued an invoice in respect of the supply, but for the delay.

Tax may also become due when the supply is completed in specific circumstances. For example, tax on a sale of real property generally becomes due on closing. Similarly, if goods are sold, any tax on the supply that has not previously become due becomes due at the end of the month following the month when the goods are delivered to the purchaser.

Imported Goods

Tax on imported goods becomes due when the goods are released by the Canada Border Services Agency for entry into Canada.

F. Recovery of GST by Registrants

A registrant may recover the GST payable on property and services that it acquires or imports for consumption or for use or supply in its commercial activities. This is accomplished by claiming input tax credits as a deduction on the registrant's GST return.

A valid tax invoice or customs document must generally be obtained before an input tax credit may be claimed.

A registrant generally claims its input tax credits in the GST return for the reporting period in which the tax becomes payable. However, a registrant may claim an input tax credit at a later date. Recovery is generally possible in any return filed within four years of the end of the reporting period in which the tax became payable. The recovery period is reduced to two years for certain businesses engaged in exempt activities, such as financial institutions.

Restrictions on Input Tax Credits

Input tax credits may not be recovered to the extent that an input is used in making exempt supplies.

The amount of input tax credits that may be recovered is based on the extent to which the input is used for consumption or for use or supply in commercial activities. Special rules apply to capital goods and capital real property. Input tax credits may not be claimed for purchases of property and services that are not used for business purposes (for example, goods acquired for private use by an entrepreneur or an officer or shareholder of a company). If an item is used less than 10% for business purposes, no recovery is permitted. In addition, input tax may not be recovered for some items of business expenditure.

The following table sets out examples of items of expenditure for which input tax credits may not be claimed and, if the expenditure is related to use in commercial activities, examples of items for which input tax credits are available. This list is not exhaustive.

Examples of Items Ineligible for Input Tax Credits

Purchases used less than 10% in commercial activities
 Membership fees for social clubs
 50% of business meals and entertainment costs
 Business gifts

Examples of Items Eligible for Input Tax Credits (if related to commercial activities)

Hotel accommodation
 Attending conferences and seminars
 Purchase, lease or hire of a car, van or truck, subject to certain limits
 Maintenance and fuel for a car, van or truck
 Parking
 Mobile phones

Partial Exemption

Tax paid on inputs related to making exempt supplies is generally not recoverable as an input tax credit. If a GST registrant makes both exempt and taxable supplies, it may be limited to claiming a partial input tax credit.

The amount of input tax credits that a business engaged partially in exempt activities may claim may be calculated in two stages:

- The first stage identifies the tax on inputs that may be directly allocated to taxable and to exempt supplies. Tax on inputs directly attributable to taxable supplies is eligible for full input tax credits. Tax on inputs directly related to exempt supplies is not recoverable.
- The second stage apportions tax on other inputs between taxable and exempt supplies, based on any method that is fair and reasonable in the circumstances. The proportion that relates to commercial activities may be claimed as an input tax credit.

Refunds

If the input tax credits claimed in a period exceed the amount of GST collected or collectible in the same period, the registrant may claim a refund.

G. Recovery of GST by Non Resident Businesses

Canada does not refund GST incurred by businesses that are not registered for GST, other than through the general tourist rebate. Refunds are available to nonresidents for tax paid on short-term accommodation and on certain goods supplied in Canada that are subsequently exported. Refunds are also available for expenditure related to conventions held in Canada if at least 75% of the attendees are nonresidents.

H. Invoicing

GST Invoices and Credit Notes

Strict documentary requirements must be satisfied before a claim for input tax credits can be made. Suppliers are required to provide this information upon request.

A GST invoice is necessary to support a claim for an input tax credit, refund or rebate.

If a registrant has collected an excess amount of tax, it may refund or credit the excess amount to the customer. A registered supplier has up to two years from the end of the reporting period in which the excess amount was charged or collected to make the refund or adjustment. If the supplier chooses to take this action, the supplier must, within a reasonable time, issue a credit note to the recipient for the amount of the refund or credit.

If the supplier has already accounted for GST on the supply, the supplier may use the credit note to reduce its tax liability in the period in which the credit note is issued. Conversely, if the recipient of the supply has already recovered the tax by claiming an input tax credit or rebate, the recipient must repay the credit or rebate to the Canada Revenue Agency.

Similar tax adjustment provisions also apply where tax has been charged or collected by the supplier and the consideration is subsequently reduced for any reason. Both volume discounts and returns are treated as price adjustments for GST purposes.

Exports

Generally, GST does not apply to exported goods. Where the supplier delivers the goods outside Canada, the transaction is treated

as a supply outside Canada and is generally not taxable. Where the supplier delivers the goods in Canada, the export sale is zero-rated if all of the following conditions are satisfied:

- The property must be exported by the recipient as soon after delivery as is reasonable in the circumstances;
- The property must not be acquired for consumption, use or supply in Canada prior to exportation;
- The recipient must not further process, or transform or alter the property, prior to exportation; and
- The supplier of the property must maintain satisfactory evidence of the exportation by the recipient.

Most services supplied to nonresidents qualify for zero rating. However, a number of exceptions apply. For example, zero rating generally does not apply if the service relates to property located in Canada or if it is rendered to an individual in Canada.

Foreign Currency Invoices

Suppliers may invoice in foreign currency and recipients may make payments to suppliers in foreign currency.

If a GST invoice is issued in a foreign currency, it must be converted to Canadian dollars (C\$) for reporting purposes. Generally, the Canadian currency equivalent may be determined by using the exchange rate in effect on the day the consideration for the supply is paid, the day the foreign currency was acquired or the average rate of exchange for the month when tax became payable. Acceptable foreign currency exchange rates include those established by a Canadian chartered bank, the Bank of Canada or the Canada Border Services Agency. The method of conversion chosen by a registrant must be applied on a consistent basis.

I. GST Returns and Payment

GST Returns

Reporting periods are monthly, quarterly or annual, depending on the level of taxable and zero-rated supplies made by the registrant.

Registrants whose turnover exceeds C\$6 million a year must file returns monthly. Registrants whose turnover is between C\$500,000 and C\$6 million a year must file returns quarterly (with an option of filing monthly). Registrants whose turnover does not exceed C\$500,000 must file annually (with an option of filing monthly or quarterly).

Any net tax due for the period must be remitted with the return. Payments must be made in Canadian dollars.

Annual Returns – Payment by Installment

If a registrant is eligible to file annual returns, it may have to pay four GST installments each year. If the total net tax remittable for the current or previous year is less than C\$1,500, quarterly installments are not required.

Installments are based on an estimate of the net tax due for the current year or the amount of net tax remitted in the previous year, whichever is the lower amount. Penalties and interest apply to underpaid installments. The GST return filed at the end of the year reconciles the installments paid with the amount of net tax

actually owed for the year. Any additional tax due must be remitted with the return.

Penalties

If a person fails to pay or remit an amount of tax when due, a penalty of 6% per year plus interest (at a rate prescribed by law) is payable on the amount unpaid or not remitted. Both the penalty and interest amounts are compounded daily.

A person who fails to comply with a demand to file a return for a period or transaction is liable to a penalty equal to the greater of:

- C\$250; and
- 5% of the amount of tax payable or the net tax to be remitted.

A person who knowingly, or under circumstances amounting to gross negligence, makes or participates in making a false statement or an omission in a return or other document is liable to a penalty equal to the greater of:

- C\$250; and
- 25% of the amount underdeclared or overclaimed.

Criminal penalties may also apply in certain circumstances.

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A. At a Glance

| | |
|-------------------------------------|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 31 December 1974 |
| European Union (EU) Member State | No |
| Administered by | Internal Revenue Service (Servicio de Impuestos Internos – SII) http://www.sii.cl |

| | |
|---|---|
| VAT Rates | |
| Standard | 19% |
| Other | Exempt and Additional Taxes (ranging from 15% to 50%) |
| VAT Number Format | The Tax Identification Number (known as “RUT”) is used for VAT and other tax purposes 12.345.678-0 |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The transfer of goods, undertaken on a regular basis or the supply of services (listed in the VAT law), if undertaken in Chile by a taxpayer;
- The importation of goods from outside Chile, irrespective of the status of the importer; and
- Other taxable transactions specified by law, such as the withdrawal of inventory, contributions in kind and leasing of moveable goods.

C. Who Is Liable

A VAT taxpayer is any business entity or individual that regularly makes taxable transfers of goods or that provides taxable services (whether or not on a regular basis) in the course of doing business in Chile. No VAT registration threshold applies. At the commencement of business, all business entities must file a business initiation application and an application for a taxpayer identification number (RUT). These provisions also apply to a permanent establishment of a foreign entity in Chile.

Group Registration

VAT grouping is not allowed under the Chilean VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Chile. If a non-established business intends to carry out transactions in Chile that are subject to VAT (such as the transfer of goods or the supply of taxable services), it is required to register for VAT purposes. The non-established business must submit an application for an RUT number and a business initiation application, by appointing a representative in Chile to act on its behalf. However, doing so may lead to the conclusion that the non-established business does have a permanent establishment (PE) in Chile.

Tax Representatives

A tax representative must have the power to represent the business in its dealings with the tax authorities and must be domiciled

in Chile. A foreign individual who is appointed as a tax representative must be domiciled in Chile and must be in possession of a valid visa that allows him to act in this capacity.

Late Registration Penalties

Penalties and interest are assessed for late registration for VAT. Penalties also apply for VAT fraud.

D. VAT Rates

The terms “taxable transfer” and “taxable services” refer to transfers of goods and to supplies of services that are liable to VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction.

In Chile the rate of VAT is 19%. No reduced or higher rates apply. However, additional taxes ranging from 15% to 50% may be imposed under the VAT law on the supply of specific items, such as jewelry and alcoholic beverages. In addition, certain transactions and entities are exempt from VAT.

The following table lists examples of exempt transfers of goods and services. This list is not exhaustive.

Examples of Exempt Transfers of Goods and Services

| | |
|--|--|
| Used motorized vehicles | Exported goods |
| Imports of goods by the National Ministry of Defense | Entrance to sporting events |
| Real estate transactions | Imports of cultural or sporting awards and trophies |
| Admission to artistic, scientific or cultural events, sponsored by the Public Education Ministry | Services provided by independent workers |
| Premiums for or payments from life insurance contracts | Freight from other countries to Chile and vice versa |

E. Time of Supply

The time when VAT becomes due is called the “time of transfer” or “tax point.” The basic time of transfer for goods is the earlier of when the goods are delivered or the invoice is issued. The basic time of supply for services is the earlier of when the invoice is issued or when full or partial payment of the consideration is received.

Imported Goods

VAT is due for imported goods when the goods clear all customs procedures.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax (also known as debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Chile and VAT paid on imports of goods. As a general

rule, to be recoverable, input tax must arise from the acquisition of current or fixed assets or from general expenses related to the taxable person's business activity.

A valid tax invoice or customs document must generally support a claim for input tax.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business gifts
Private use of business assets
Purchase, lease or hire of a car
Car maintenance costs

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising
Books
Employee meals
Mobile phones
Business entertainment
Purchase, lease or hire of vans and trucks
Maintenance of trucks and vans
Travel expenses
Utilities

Partial Exemption

Input tax is not deductible if it relates to exempt or nontaxable activities. VAT taxpayers that carry on taxable and nontaxable or exempt activities may not recover input VAT in full. This situation is referred to as partial exemption. The percentage of input VAT that may be recovered is calculated based on the value of taxable supplies made in the period compared with total turnover.

Refunds

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

If a taxable person has paid too much VAT in error, it may request a refund of the overpaid amount from the tax authorities. Taxpayers may request a refund of overpaid tax within three years from the end of the period for which a claim is made.

G. Recovery of VAT by Non-Established Businesses

Chile does not refund VAT incurred by businesses that are neither established nor registered for VAT in Chile, unless the VAT was paid in error.

H. Invoicing

Tax Invoices and Credit Notes

A taxpayer must generally provide a tax invoice for transactions subject to VAT, including exports. A tax invoice is necessary to support a claim for input tax deduction.

A VAT taxpayer issues a credit note for rebates, discounts or transactions voided to the acquirer of the goods or receiver of the services. A credit note must contain the same information as a VAT invoice.

Exports

Chilean VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence confirming that the goods have left Chile. Invoices for export transactions must be issued in accordance with regulations laid down by the National Customs Service and they must be stamped by the Internal Revenue Service.

Foreign Currency Invoices

Invoices must generally be issued in Chilean pesos (CLP). If a VAT invoice is issued in foreign currency, the values for VAT purposes must be converted to Chilean pesos.

I. VAT Returns and Payment

VAT Returns

VAT returns are submitted for monthly periods. VAT returns and payment in full are due by the 12th day of the month following the end of the return period. Return liabilities must be paid in Chilean pesos.

Penalties

Penalties are assessed for a range of errors and omissions connected with VAT accounting. Generally, penalties for VAT errors are calculated as a percentage of the tax underpaid, but may include closure of the business. The amount of the penalty depends on the severity and frequency of the error. Offenses are classified as follows:

- Serious – for example, failure to issue an invoice;
- Less serious – for example, leaving out a required detail from an invoice; or
- Light – for example, failure to issue a credit note.

In addition, interest is assessed at a rate of 1.5% monthly on unpaid VAT.

Criminal tax evasion may be punished by a term of imprisonment or a fine, or both, depending on the severity of the case.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 29 December 1983 |
| European Union (EU) Member State | No |
| Administered by | Dirección de Impuestos y Aduanas Nacionales (DIAN) http://www.dian.gov.co |
| VAT Rates | |
| Standard | 16% |
| Differential rates | 2%, 5%, 10%, 11%, 20% 25%, 35%, 38% and 45%. Zero-Rated (Exempt) |
| VAT Number Format | Tax Identification Number (NIT) |
| VAT Return Periods | Bimonthly |
| Thresholds | |
| Simplified Regime | Gross equity in the previous year less than US\$36,224 and gross income in the previous year less than US\$27,193 (based on a rate of COP\$2,341 = US\$1.00) (Retailers supplying taxable goods and providers of taxable services) |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of movable goods;
- Services rendered within Colombian territory;
- Importation of movable goods to Colombia; and,
- The operation of games of chance or the supply of tickets for games of chance (excluding lotteries).

In some cases specified in the tax law, imported services (that is, services executed abroad that are used in Colombia) are subject to VAT, if the recipient of the service is located in Colombia. The services subject to this provision include:

- Licenses and authorizations to use intangible assets;
- Consulting, advisory and audit services;
- Rental of corporate movable assets;
- Insurance and reinsurance services;
- Satellite connection or access services, irrespective of where the satellite is located; and
- Satellite television services received in Colombia.

C. Who Is Liable

Any business entity or individual that undertakes an activity liable to VAT (outlined in Section B *Scope of the Tax*) must register for VAT. The requirement to register also applies to a permanent establishment of a foreign entity if it carries out taxable activities or business in Colombia. Taxpayers are basically classified according to turnover into two different VAT regimes: the common regime and the simplified regime (see definitions below).

The Common Regime

All taxable persons that do not qualify for the simplified regime, must register for VAT under the common regime.

The Simplified Regime

Retailers and individuals rendering taxed services may be registered in the Tax Register (“RUT – Registro Unico Tributario”) as VAT simplified regime taxpayers, if the following conditions are fulfilled:

- The taxpayer’s gross equity in the immediately preceding year is lower than US\$36,224 (for 2005) and its gross income is lower than US\$27,193 (for 2005);
- The taxpayer has a maximum of one commercial establishment, office, premises or business where it performs its activity;
- The taxpayer does not use a franchise, concession agreement or royalty in the commercial establishment;
- The taxpayer is not a permanent exporter or importer;
- In the prior year, or in the current year, the taxpayer did not enter into supply agreements for goods or services exceeding US\$27,193; and,
- During the prior year, or in the current year, bank deposits and financial investments made by the individual did not exceed US\$45,322.

Group Registration

VAT grouping is not allowed under the Colombian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses and the Reverse Charge

A “non-established business” is a business that has no permanent establishment (PE) in the territory of Colombia. If a Colombian taxable person receives a supply of services from a non-established business, the “reverse charge” applies. Under the reverse charge provision, the Colombian resident must withhold VAT due

on the supply. The taxability of these services does not affect the final amount to be received by the foreign provider of the services. VAT is applied by the resident who requests the service, using a “self withholding” procedure. The resident computes this self-assessed VAT as a credit in the VAT tax return of the period in which the VAT was paid.

For accounting purposes, the self-assessed VAT is registered as a credit – VAT to be paid to tax authorities, and on the other hand, is registered as a debit – creditable VAT invoiced to local customers, or as a higher cost or expense, according to the general VAT rules.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT. The term “exempt supplies” is used for supplies of goods and services that are liable to VAT, but are zero-rated, in this case the VAT paid to suppliers of goods and services may be discounted from the VAT invoiced to the customers. “Excluded supplies are not subject to VAT and, therefore, do not give rise to a right of input tax discount (see Section F *Recovery of VAT by Taxable Persons*).

In Colombia, the standard rate of VAT is 16%. The standard rate applies to all supplies of goods or services, unless a specific provision allows an exclusion from VAT or the application of a reduced rate, a zero rate or an increased rate. Examples of goods and services charged at other rates include the following (these lists are not exhaustive):

- The zero rate (0%) applies principally to basic necessities (known as exempt supplies);
- The reduced rate of 2% applies to the supply of live animals, such as, cattle and pigs and other live animals;
- The reduced rate 5% VAT rate applies to games of chance;
- The reduced rate of 10% applies to a range of goods and services determined by the law, such as (among others): horses, toasted coffee, rice, tuna fish, cleaning services, prepaid health services, and in general all health insurance, social clubs services, storage of agricultural products, services rendered by hotels, and commission earned by stock market brokers;
- The increased rate of 20% applies to mobile telephones;
- The increased rate of 38% applies to luxury automobiles; and
- The increased rate of 25% applies to all other vehicles other than luxury automobiles charged at the 38% rate.

Exported Services

Exported services are exempted from VAT provided the service is rendered to a non-resident in Colombia and executed within Colombia. The service must be utilized exclusively outside of Colombia. Colombia requires the prior registration of the taxpayer and the agreement with the Ministry of Foreign Trade (Mincomex), and that some other legal requirements are met.

Withholding agents

In order to get improve the tax collection system, the Colombian Government introduced a VAT withholding mechanism, designating certain entities as VAT withholding agents (including, government departments, large tax payers, entities paying non-

resident entities or individuals and VAT tax payers using the common regime). These agents are responsible for withholding 75% of the tax due on any payment or accounting accrual relating taxable goods or services. If certain legal requirements are met (and with prior authorization of the tax authorities) agents may withhold only 50% of the tax due. For transactions with non-residents (both entities and individuals), the withholding rate is 100%.

E. Time of Supply

The time when VAT becomes due is called the "time of supply" or "tax point."

For a supply of goods, the tax point is the earlier of the following events:

- The issue of the invoice or the delivery of the goods; and
- Withdrawal of movable goods by the taxable person for its own use or to form part of its fixed assets.

For a supply of services, the tax point is the earliest of the following events:

- The issue of the invoice or equivalent document;
- Termination of the provision of the service; and,
- Payment or accrual, whichever occurs first.

For the importation of goods, the tax point is when the goods are "nationalized," that is, when they have cleared all customs formalities for importation.

F. Recovery of VAT by Taxable Persons

A taxable person may discount VAT paid on purchases (known as input tax) from VAT charged on sales (known as output tax), if the input tax relates to certain types of expenditure. Input tax paid on the acquisition of movable tangible goods and on services supplied to a taxable person, or VAT paid on imports of movable goods, up to a limit determined by applying the rate of VAT charged on the supply of the goods or services by the taxable person to the input tax incurred. Any excess input tax paid is treated as a higher amount of the cost or expense. Furthermore, for transactions with foreign suppliers, the reverse charge (or "self-assessment") mechanism should be used and the VAT withheld may be treated as input tax, provided the taxable person is able to prove to the tax authorities that the tax has been withheld.

G. Acquisitions or Importations of Industrial Machinery.

In general, VAT paid for the acquisition of fixed assets is not taken as a discount, but is treated as part of the (increased) cost paid for the assets and is included in the base for depreciation. However, the tax law provides certain exceptions to this rule:

Producers of Excluded Goods

Producers of excluded goods may treat VAT paid on the acquisition or importation of industrial machinery, as a discount against tax due in their income tax returns, but only for the tax years 2003, 2004 and 2005. The discount (credit) may be applied in full in the tax year of acquisition or importation (that is, the percentage limitations do not apply). The discount may be claimed within three years from the VAT return period when the machinery is

imported or acquired. The deduction is 50% in the first year and 25% in the second and third years.

Producers of Exempt Goods and Exporters

Producers of exempt goods may treat VAT paid on the acquisition or importation of machinery as a discount against tax due in their VAT tax returns, but only for the tax years 2003, 2004 and 2005. The discount (VAT credit) may be applied in the VAT period of acquisition or importation or in the following two VAT periods (that is, the percentage limitations do not apply).

New Companies

New companies may apply a credit for the acquisition or importation of machinery against VAT payable within three years from commencing taxable activity.

Heavy Machinery for Basic Industries

VAT paid for the acquisition of heavy machinery by a company involved in one of the basic industries (for example, mining, oil and gas, and power generation) may be treated as a tax discount (credit) against tax due in the taxpayer's income tax returns. The discount (credit) may be applied in the tax year of acquisition or importation and in the following periods. If the imported machinery has a value in excess of US500,000 VAT may be paid as follows:

- 40% when the importation form is completed; and
- The remaining 60% within the next two years.

The taxpayer should enter into a payment agreement with the local tax authorities if it wishes to use this method.

A special provision applies for long term temporary imports of heavy machinery not produced in Colombia that are imported by companies involved in basic industries. Under this provision, these imports are excluded from VAT, at the time of the entry of the goods into Colombia. To obtain the VAT exclusion the importer must submit a certificate of the Ministry of Foreign Trade (Mincomex) at the time of entry, stating that the machinery to be imported is not produced in Colombia and that it will be used in basic industry.

VAT paid for the acquisition of "real productive fixed assets" may be treated either as:

- A part of cost of the goods acquired;
- A tax discount (credit) in the income tax return; or
- A tax discount (credit) in the VAT return, according to the decision of the taxpayer.

This rule applies for assets acquired between the beginning of 2004 and the end of 2007 that qualify as "real productive fixed assets."

Refunds

If the amount of input VAT recoverable in a taxable period exceeds the amount of output VAT payable, the taxable person earns an input VAT credit. The credit may be refunded if the taxable person is either an exporter of goods or services, or supplies zero-rated goods or has been subject to VAT withholding and the total balance arises from the withholdings.

In addition, VAT paid on the acquisition of materials used to construct housing “of social interest” may be requested for refund (but the construction plans must have been approved by the Colombian government).

H. Recovery of VAT by Non-Established Businesses

Colombia does not refund VAT incurred by foreign or non-established businesses unless they are registered for VAT there.

However, members of accredited diplomatic missions and members of the United Nations may claim a refund of VAT paid.

I. Invoicing

Tax Credit Documents, Invoices and Credit Notes

A taxable person must provide a VAT invoice for all taxable supplies made, including exports. In some cases, other documents may be issued and treated as equivalent to invoices such as tickets and contracts signed with nonresidents (that is, technical services or technical assistance services). A tax invoice is generally necessary to support a claim for input tax credit.

Exports

VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that prove that the goods have left Colombia. The exporter must file a declaration to the tax authorities, known as a DEX, and also must be registered as exporter before Ministry of Foreign Trade (Mincomex). In Colombia, sales of goods to Colombian free trade zones are considered to be exports and, therefore, they are not subject to VAT.

Foreign Currency Invoices

Invoices may be issued in a foreign currency, but VAT must be filed and paid in Colombian pesos (COP\$). The VAT amount must be converted to pesos using the market exchange rate on the date of the transaction. The Colombian Central Bank manages the exchange system.

J. VAT Returns and Payment

VAT Returns

VAT returns are submitted bimonthly for the periods ending February, April, June, August, October and December. Returns must be submitted to a duly authorized commercial bank by the due date (specified in a governmental decree).

Return liabilities must be paid in Colombian pesos (COP\$).

Penalties

The penalty for late filing and payment applies for each calendar month (or part thereof) of delay is equivalent to 5% of the total tax charged or withheld in the tax return period, up to a maximum of 100% of the tax.

If the taxable person has no VAT to pay, the penalty for each month of delay (or part of a calendar month) is 0.5% of the gross income received by the taxpayer, up to a maximum of 5% of such income, or twice the credit balance in favor of the taxpayer in the

return period. The maximum penalty is 5% of gross income or twice the credit balance (if any), or, if no credit balance exists, US\$20,357 for year 2005. If the taxpayer has no income during the period, the penalty per month (or part of a month) is 1% of net equity for the prior year. The maximum penalty is the lower of 10% of the taxpayer's net equity for the prior year and twice the credit balance (if any), or if no credit balance exists, US\$20,357.

However, a minimum penalty of US\$8,281.58 applies.

The taxpayer must include the appropriate amount of penalty in any tax return that is filed late.

The rate of interest charged on late payments of VAT is determined every four months, by a national decree issued by the Treasury Department. The current rate established by the Government is 24.99% annually.

The Criminal Code includes penalties for the omission of tax liabilities. A taxpayer or tax withholder that does not pay collected VAT amounts within the two next months to the due date, may be punished with imprisonment for a term of between three and six years, and payment of a penalty equal to twice the amount of unpaid VAT, up to a maximum of US\$8,148,227 for the fiscal year 2005 (that is, 50,000 times the monthly minimum wage).

COSTA RICA

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A. At a Glance

| | |
|---------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto General sobre las Ventas |
| Date Introduced | 8 November 1982 |
| European Union (EU) | No |
| Member State | |
| Administered by | The Ministry of Finance http://www.hacienda.go.cr/tributacion |
| VAT Rates | |
| Standard | 13% |

| | |
|---|---|
| Reduced | 10% and 5% |
| Other | Exempt and Zero Rated |
| VAT Number Format | Tax Identification Number (known as the “RUC” number) |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | None |
| Small Taxpayer | Annual gross sales less than CRC 1.2 million (for certain activities) |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods and the rendering of certain specific services in Costa Rica by a taxable person;
- Self consumption; and
- The importation of goods from outside Costa Rica, irrespective of the status of the importer.

C. Who Is Liable

A VAT taxpayer is any business entity or individual that sells taxable goods (including imports and exports of goods) or that supplies taxable services on a regular basis. The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Costa Rica.

No turnover threshold applies to VAT registration. As soon as a taxable person commences taxable activity, he must notify the VAT authorities of its liability to register. A taxable person that does not notify its obligation to register may be automatically included in the registry of VAT payers.

Small Taxpayers

A simplified VAT regime applies to small taxpayers. The simplified regime applies to individuals who carry out a limited range of activities, such as small retail activities, operating a grocery store or mini-market. To qualify as a small taxpayer, the entrepreneur’s gross annual sales must not exceed CRC 1.2 million. Under the simplified regime, presumed taxable turnover is calculated by applying an estimated profitability factor that is determined depending on the taxpayer’s business sector. The VAT rate is then applied to the presumed taxable turnover and the small taxpayer pays VAT on that basis.

Group Registration

VAT grouping is not allowed under the Costa Rican VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment within the territory of Costa Rica. A non-established business should, in principle, register for VAT if it supplies goods or services in Costa Rica.

Late Registration Penalties

A taxable person that fails to register for VAT in time loses its entitlement to deduct tax on goods purchased by the business that form part of its inventory when it does register.

Tax authorities may assess unpaid VAT. Penalties and interest are also assessed for late registration for VAT.

D. VAT Rates

In Costa Rica, the standard rate of VAT is 13%. The standard rate applies to all supplies of goods and to the list of taxable services, unless a specific provision allows an exemption. Supplies of wood are subject to a 10% rate; residential supplies of electricity are subject to a 5% rate.

In addition, some activities are exempted activities or zero-rated. In both cases, no VAT is charged. However, unlike zero-rated activities, exempted activities do not give rise to a right of input tax (see Section F *Recovery of VAT by Taxable Persons*).

The following table lists examples of exempt supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

| | |
|--|---|
| Goods that form part of “the average weekly shopping,” as defined (a list of items considered essential for the traditional household) | Tires for farm machinery Medicines |
| Veterinarian and agricultural products including livestock | Books, musical compositions and paintings created in Costa Rica |
| Coffins | Exported goods |
| Domestic monthly consumption of electricity (not exceeding 250kw/h) | The re-importation of national goods within three years of their export |

E. Time of Supply

The time when the taxable event is considered to have taken place and VAT becomes due is called the “tax point.”

Goods

The basic time of supply for the sale of goods is the earlier of the delivery of the goods or the issue of an invoice.

Services

The basic time of supply for services is the earlier of when the service is performed or an invoice is issued.

Imported Goods

The time of supply for imported goods is when the bill of lading or the customs form for the goods is accepted.

F. Recovery of VAT by Taxable Persons

A taxable person may offset input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services subject to tax. Input tax is generally credited against output tax, which is VAT charged or collected on the sale of goods

or rendering of services. An input tax credit may be taken in the month of the import or acquisition of goods and services. Taxpayers receive a tax credit or deduction for tax paid in respect of:

- The purchase or importation of goods and services that are physically incorporated into or that are used directly in the production of taxable merchandise or services;
- The payment of insurance premiums for the protection of merchandise used or incorporated physically in the production of taxable merchandise or services;
- The purchase of merchandise incorporated physically during the production of exempt merchandise; and
- The purchase of merchandise incorporated physically during the production of goods for exportation.

A valid tax invoice or customs document must generally accompany a claim for input tax credit.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not physically or directly incorporated into, or used in the production of, the final goods and services supplied by the taxable person. Generally, therefore, input tax is not deductible for overhead expenses of a business.

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxable person has an input VAT credit. The input VAT credit may be carried forward to offset against output tax in the following months. Under special circumstances, if the taxpayer foresees that it will not use up his VAT credits within the following three months, it may request to use his credits to offset other liabilities.

G. Recovery of VAT by Non-Established Businesses

Costa Rica does not refund VAT incurred by foreign or non-established businesses unless they are registered for VAT in Costa Rica.

H. Invoicing

VAT Invoices and Credit Notes

A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made. Invoices must be authorized by the VAT authorities. The VAT authorities may authorize the use of cash registers and other computerized systems to issue invoices.

A VAT invoice is generally necessary to support a claim for input tax credit.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services.

Exports

Costa Rican VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that give evidence proving that the goods have left Costa Rica. Suitable evidence includes export invoices and bills of lading.

I. VAT Returns and Payment

VAT Returns

VAT returns are submitted monthly. Returns must be submitted by the 15th day of the month following the end of the return period. Payment in full is due on the same date. A return must be filed, even if no VAT is due for the period.

Tax due must be paid in Costa Rican colons (CRC).

Penalties

Penalties apply to a range of VAT offenses in the following amounts:

- Late filing of a VAT return – a penalty of 50% of the average monthly Costa Rican wage (as established by law);
- Late payment of VAT – late payments of taxes are subject to a penalty of 1% of the unpaid amount for every month or fraction of a month. The penalty has a 20% cap (that is, the maximum penalty is 20% of the unpaid amount);
- Inaccuracies in the return – a penalty of 25% of the unpaid amount. The amount of the penalty may be reduced up to an 80% depending on the moment of payment.

In addition, interest applies to underpayments of VAT, at the average rate of interest charged by commercial banks to the commercial sector for the tax period.

VAT fraud that results in a loss of tax to the revenue of an amount greater than 200 times the average monthly Costa Rican wage, is punishable by a term of imprisonment from five to ten years.

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| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Names | |
| Date Introduced | 1 July 1992 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered by | The VAT Service (Customs & Excise) http://www.mof.gov.cy/mof/customs/VAT.nsf |
| VAT Rates | |
| Standard | 15% |
| Reduced | 5% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 12345678X |
| VAT Return Periods | Quarterly |
| Thresholds | |
| Registration | £9,000 (in a 12 month period) |
| Distance Selling | £20,000 (annually) |
| Intra-Community Acquisitions | £16,000 |
| Intra-Community Supplies | £16,000 |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Cyprus by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in Cyprus; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

Special rules apply to intra-Community transactions involving new means of transport and distance sales (see the chapter on the European Union).

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services or intra-Community acquisitions or distance sales, in the course of a business, in Cyprus.

A person making taxable supplies is liable to be registered at the end of any month if the value of taxable supplies in the year ended on the last day of that month has exceeded £9,000. If this is the case, the person must notify the VAT Commissioner by submitting Form VAT 101 to the local VAT office within 30 days of the end of the relevant month. Registration is effective as from the end of the month following the relevant month, or from such earlier date as may be agreed.

A person is also liable to register if there are reasonable grounds for believing that taxable supplies in the next 30 days will exceed £9,000. The taxable person must submit Form VAT 101 to the local VAT office within the 30 days and registration is effective from the beginning of that 30 day period.

Special rules apply to foreign or “non-established” businesses.

Group Registration

VAT grouping is possible for two or more companies registered in Cyprus. The main effects of grouping are:

- One member of the group is appointed as the representative member;
- The representative member is responsible for the preparation and submission of the VAT returns, and for paying, or reclaiming, any VAT on behalf of all group members;
- Any business carried on by a member of the group is treated as being carried on by the representative member;
- Any supply of goods or services by a member of the group to another member of the group is disregarded;
- Any supply of goods or services by or to a third party is treated as a supply to or by the representative member; and
- All the members of the group are responsible for any VAT payable by the representative member.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Cyprus. A non-established business that makes supplies of goods or services in Cyprus must register for VAT if it is liable to account for Cypriot VAT on the supply, or if it makes intra-Community supplies or acquisitions of goods.

A non-established business must, therefore, register for Cypriot VAT if it makes any of the following supplies:

- Intra-Community supplies;
- Intra-Community acquisitions;
- Distance sales in excess of the threshold; and
- Supplies of goods and services that are not subject to the reverse charge (for example, goods or services supplied to private persons).

Tax Representatives

The VAT authorities may direct any taxable person that does not have any business establishment, fixed establishment, or usual place of residence within the European Union to appoint a VAT representative to act on its behalf in relation to VAT. This representative is personally liable for any VAT that has not been paid.

If the taxable person fails to appoint a VAT representative, the Commissioner may require the taxable person to provide ade-

quate security for the payment of any VAT which is or may become due.

Late Registration Penalties

A penalty is applied to late registration, assessed at £50 for each month that the failure to register continues. Interest is charged at the rate of 9% annually on the amount of VAT outstanding.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services and intra-Community supplies of goods and intangible services supplied to another taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

In Cyprus, the following rates of VAT currently apply – the standard rate at 15%, a reduced rate at 5% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Real estate transactions (except “new buildings”)
 Services of doctors and dentists
 Social welfare
 Finance
 Insurance
 Human organs

Examples of Goods and Services Taxable at 0%

Supply, lease and repair of sea-going vessels and air craft and related services
 Medicines
 Food (except supplied in the course of catering)
 International transport of persons

Examples of Goods and Services Taxable at 5%

| | |
|----------------------------------|--|
| Restaurant services | Supply of Coffins |
| Hotel accommodation | Animal feeding stuffs |
| Services provided by undertakers | Liquefied petroleum gas |
| Services of writers, composers | Various goods for incapacitated persons |
| Refuse collection | Fares for rural and urban areas |
| Waste treatment | Newspapers, books, magazines and similar items |
| Road cleaning | Ice cream, chips and salted nuts |
| Fertilizers | Water not bottled |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.”

Goods

The time of supply for goods is defined as one of the following events:

- The date of delivery of goods;
- The date of issue of the invoice; or
- The date of payment.

Services

With respect to the supply of services, the tax point is the earliest of:

- The date of completion or performance of the services;
- The date of issue of the invoice; or
- The date of payment.

Additional Time of Supply Rules

If an invoice is issued within 14 days from the date of delivery of the goods or the performance of the services, then the invoice date is the tax point, unless it has been overridden by an earlier payment. The period of 14 days may be extended with the approval of the VAT authorities.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition was made. If the supplier issues an invoice prior to this date, the time of supply is when the invoice is issued.

Imported Goods

The time of the supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Cyprus, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase, lease, hire or maintenance of saloon cars
 Accommodation, food and entertainment (other than for employees)
 Private expenditure

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire, lease, maintenance for vans and trucks
 Fuel
 Parking costs
 Attending conferences, seminars and training courses
 Business gifts (if valued at more than £10 output VAT is due)
 Business use of home telephone
 Mobile phones (the invoices must be issued on the name of the business)
 Advertising

Partial Exemption

Input tax directly related to the making of exempt supplies is generally not recoverable. If a Cypriot taxable person makes both exempt and taxable supplies it may not recover input tax in full. This situation is referred to as “partial exemption.”

Input tax directly relating to taxable supplies is fully recoverable and input tax directly relating to exempt supplies is not recoverable. Non-attributable input tax must be apportioned. The standard method is to multiply non-attributable input tax by the value of taxable supplies compared with the value of total supplies.

The VAT authorities may approve or direct the use by a taxable person of another reasonable method if the result achieved by the standard method is considered to be distortive.

Possibility to Claim Input VAT by Exempt Businesses

The services supplied by businesses in the insurance and financial sectors are generally exempt from VAT, with no right to input tax deduction. However, input VAT that is paid by businesses that provide insurance and financial services, such as insurance companies, banks and other financial institutions, may be reclaimed, provided that these services are supplied to persons established in countries outside the European Union (non-EU countries). Services covered by this provision include the supply of life and general insurance, the granting of loans and other credit facilities, the operation of bank accounts, foreign exchange dealings and transactions that relates to shares, bonds and other securities.

If a business provides this type of financial transaction to customers both in the European Union and outside the European Union, the amount of refundable input VAT is proportioned accordingly.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery

position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period.

Up to 30 April 2004, in Cyprus, the capital goods adjustment applied only to computers costing more than £20,000. The input tax adjustment for computers last for a period of five years.

With effect from 1 May 2004, Cyprus operates a capital goods scheme with respect to the following assets:

- Tangible goods maintained and used by a business (not including in the value of the tangible asset the cost of repairs and maintenance);
- The use of property rights, trade marks, patents and goodwill that may be used more than once and the value does not exceed £10,000;
- The transfer of building or part of it including the land when the transfer takes place before the first establishment;
- The transfer of ownership of buildings or part of it including the land via sale or lease agreement at the end of which the property will be transferred when the transfer takes place before the first establishment;
- Buildings constructed by a taxable person on immovable property not owned by the taxable person.

The input tax adjustment lasts for a period of five years for the capital goods except for immovable property for which the input tax adjustment last for a period of ten years.

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax recoverable in a quarterly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the input tax credit is either set against future payments or it is refunded to the taxable person after submission of a claim (Form VAT 4B) but only if the input VAT relates to one of the following categories:

- The making of zero rated supplies;
- The supply of services provided outside Cyprus; or
- The acquisition of fixed assets.

G. Recovery of VAT by Non-Established Businesses

Cyprus refunds VAT incurred by businesses that are not established in Cyprus nor registered for VAT there. A non-established business is allowed to claim Cypriot VAT to the same extent as a VAT registered business.

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive.

For a person established in a country outside the European Union, the refund system applies if that country provides reciprocal arrangements for similar repayments to be made to Cypriot businesses. In addition, in order to take advantage of this refund system, the person must not be established or registered in any of the other Member States of the European Union.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

For a person registered for VAT in an EU country, a claim for repayment must be made within 6 months after the end of the calendar year when the VAT was incurred. For all other persons, claims with respect to VAT incurred in the one year period from 1 July to 30 June must be made within 6 months of the end of that one year period (that is, by 31 December).

Claims may be submitted in Greek. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is £15. For an annual claim the minimum amount is £120.

Applications for refunds of Cypriot VAT may be sent to the following address:

Commissioner of VAT
VAT Headquarters
1471 Nicosia
Cyprus

Repayment Interest

If a refund is not made within six months, the Cypriot VAT authorities pay interest to the claimant at the annual rate of 9% per month.

H. Invoicing

VAT Invoices and Credit Notes

A Cypriot taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions valued at less than £50, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. Credit notes adjusting the initial amount of VAT charged may be issued if there has been a genuine mistake, or overcharge or if a discount has been agreed. To be valid for VAT purposes, the credit note must be

issued within one month from the date when the mistake is discovered or the discount is agreed, it must be marked "Credit Note" and it must contain details of the original supply and the circumstances under which a credit is given (for example, return of faulty goods).

Proof of Exports and Intra-Community Supplies

Cypriot VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Cyprus. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by Customs, showing the supplier as the exporter; and
- For an intra-Community supply, a range of commercial documentation (such as, purchase orders, transport documentation, proof of payment and contracts).

Foreign Currency Invoices

When Cypriot VAT is charged on an invoice, it must be issued in Cypriot pounds (£). If an invoice is issued in foreign currency, the VAT must be converted to Cypriot pounds using the exchange market rate or the rate issued by the Department of Customs and Excise.

I. VAT Returns and Payment

VAT Returns

Cypriot VAT returns are submitted for quarterly periods. Quarterly VAT returns must be filed by the 10th day following the relevant calendar quarter. Any VAT due must be paid by this date.

Penalties

A one-off penalty of £30 per VAT return is charged for the late submission of the VAT return. Late payment of outstanding VAT results in the imposition of penalty of 10% of the outstanding amount. Interest is charged at the rate of 9% annually on the amount of VAT outstanding. The 9% interest rate applies to late payment of outstanding VAT, late registration, and late submission of the VAT return. The interest rate does not fluctuate and is always 9%.

Penalties are also assessed for the following offenses:

- Late registration: a penalty of £50 for each month that the failure continues;
- Failure to apply the reverse charge – a penalty of £50;
- Failure to keep records for a prescribed period – a penalty of £200;
- Issuing an unauthorized invoice – a penalty of £50;
- Fraudulent evasion of VAT – up to three years imprisonment or a fine up to three times of the amount due, or both;
- Receipt of goods on which VAT evaded – up to 12 months imprisonment or a fine of £5,000 or both; and
- VAT shown in assessment issued by Commissioner not paid – up to 12 months imprisonment or a fine of £5,000, or both.

J. EU Declarations

INTRASTAT

A Cypriot 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 INTRASTAT thresholds for 2005 have been set at £16,000 for arrivals and for departures. Additionally, special thresholds have been set at £400,000 annually for arrivals and £300,000 annually for departures. Traders that make intra-Community supplies and acquisitions below these thresholds are not required to complete all the information required on the INTRASTAT return.

Cypriot taxable persons must complete INTRASTAT declarations in Cypriot pounds, rounded up to the nearest whole number.

The INTRASTAT return period is monthly. INTRASTAT returns should be submitted by the 10th day of the month following the end of the month to which they relate.

A penalty of £5 for each day of delay may be imposed for late submission for up to 30 days of delay. If the return is not submitted for a longer period 30 days, the offense is treated as “civil wrong” and a fine up to £1,500 applies.

EU Sales Lists

If a Cypriot taxable person makes intra-Community supplies in any return period, it must submit an EU Sales List (ESL) to the Cypriot VAT authorities.

ESL returns must be submitted quarterly to the VAT Authorities, by the 10th day following the end of the second month of the quarter to which they relate.

If a supplier has made no intra Community supplies in any quarter, it must still submit the ESL informing the VAT authorities that it has made no intra Community supplies.

Each time a taxable person fails to submit an ESL on time a penalty of £30 applies for each month of delay up to three months. If the return is not submitted for longer than three months, the offense is treated as “civil wrong” and a fine of up to £1,500 applies. If the ESL contains misstatements or omissions, a penalty of £30 is imposed unless the error is corrected within two months from the end of the quarter.

CZECH REPUBLIC

Country Code 420

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Czech Republic

Indirect Tax Contact

Jiri Jakou

225 335 665

E-mail: Jiri.Jakoubek@cz.ey.com**A. At a Glance**

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Dan z pridane hodnoty |
| Date Introduced | 1 January 1993 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered by | Ministry of Finance http://www.mfcr.cz |
| VAT Rates | |
| Standard | 19% |
| Reduced | 5% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | CZ999999999 or CZ9999999999 or CZ99999999999 |
| VAT Return Periods | Monthly (if turnover in preceding calendar year reached CZK 10 million, optional if turnover between 2 million and CZK 10 million) Quarterly (if turnover in the pre- ceding calendar year was below CZK 10 million) |
| Thresholds | |
| Registration | CZK 1 million (for a maximum period of 12 consecutive calendar months) |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made for consideration in the Czech Republic by a taxable person, including the transfer of real estate;
- The intra-Community acquisition of goods for consideration effected in the Czech Republic by a taxable person (see the chapter on the European Union);
- The intra-Community acquisition of goods or by a legal entity that has not been founded or established for the purpose of carrying on business activity (see the chapter on the European Union);
- The acquisition of a new means of transport from another member state of the European Union for consideration by a person who is not a taxable person (see the chapter on the European Union);

- Reverse charge services received by a taxable person; and
- The importation of goods into the Czech Republic.

C. Who Is Liable

A taxable person is any business entity or individual that independently carries out economic activities. A taxable person may also be a legal entity that was not established for the purpose of doing business, if it undertakes economic activities.

A VAT payer is a taxable person that is registered for VAT. Businesses that exclusively make exempt supplies (that is, supplies that are exempt without the right to deduct input VAT – see Section D *VAT Rates*) may not register for VAT.

A taxable person that is established, has a fixed establishment or has place of business in the Czech Republic is obliged to register for VAT in any of the following circumstances:

- Its turnover in the preceding 12 consecutive calendar months exceeded CZK 1 million. A taxable person is obliged to file an application for the VAT registration no later than the 15th day of the calendar month following the month in which the threshold was exceeded;
- It concludes an “association agreement” or similar agreement with a Czech VAT payer. The taxable person is obliged to file an application for VAT registration with effect from the date when the agreement is concluded; or
- It jointly makes taxable supplies on the basis of an “association agreement” or similar agreement (with a Czech non-VAT payer) and the aggregate turnover of the taxable person (both within the association and outside it) exceeded CZK 1 million in the preceding 12 consecutive calendar months. The taxable person is obliged to file an application for the VAT registration no later than the 15th day of the calendar month following the month in which the threshold was exceeded.

Voluntary Registration

A Czech business whose taxable turnover does not exceed the registration threshold may register for VAT voluntarily.

Group Registration

The Czech VAT legislation does not allow VAT group registration. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that is not established, has no fixed establishment or place of business in the territory of the Czech Republic. A non-established taxable person is obliged to file an application for VAT registration in the Czech Republic as soon as it makes a taxable supply there – but only if the taxable person is obliged to apply Czech VAT on the supply according to the Czech VAT Act. The VAT registration limit does not apply in these circumstances.

The concept of a tax representative (as a person obliged to apply and pay VAT) was abolished from the Czech VAT legislation with effect from 1 January 2005. Nevertheless, general conditions concerning representation for tax proceedings (including the possibility to represent a person in respect of tax registration) may apply.

VAT registration applications for non-established businesses should be sent to the following address:

The Financial Authority for Prague 1
 Stepanska 28
 112 33
 Prague 1
 Czech Republic

Reverse Charge Services

The reverse charge applies to certain services, if a foreign supplier provides services to a Czech customer and the place of performance is deemed to be in the Czech Republic according to the Czech VAT Act. The purchaser is obliged to self-assess output VAT at the appropriate rate (see Section D *VAT Rates*). The self-assessed tax is also treated as input tax and thus may be recovered (see Section F *Recovery of VAT by Taxable Persons*). The reverse charge does not apply for supplies to private individuals who are not registered for VAT. The relevant services are those listed in Article 9 (2) (e) of the EU Sixth Directive (see the chapter on the European Union). Reverse charge services include:

- Transfers and assignments of copyrights; patents; licences; trade marks and similar rights;
- Advertising services;
- Services of advisors; engineering services; services of consultants; lawyers; accountants and other similar services; as well as the data processing and providing of information; translation and interpreting services;
- Banking; financial and insurance services; with the exception of the hire of safes;
- Supply of staff;
- Hire of movable assets; with the exception of all means of transport;
- Telecommunication services;
- Operation of radio-communication and television broadcasting;
- Electronic services;
- Adoption of an obligation to refrain wholly or partly from continuing or performance of a business activity or right referred to above; and
- Services of agents who act in the name and for the account of another; when they procure for their principal the services referred to above.

The reverse charge also applies to the following services if they are supplied physically in the Czech Republic by a foreign supplier to a Czech customer:

- Cultural, artistic, sporting, scientific, educational and entertainment services, organization of conferences, exhibitions and fairs, and services relating to the performance of these services;
- Services relating to transport services; and
- Valuation of movable tangible property and work on movable tangible property.

The reverse charge also applies to the following supplies made by foreign suppliers, provided that the foreign supplier is not obliged to register for Czech VAT:

- Services connected with real estate; and

- Transport services, if the transport takes place in the Czech Republic.

Deregistration

If a company is dissolved, it is automatically deregistered for VAT.

If a taxable person's turnover falls below the registration threshold, it may apply for deregistration. However, deregistration is not compulsory in these circumstances. Deregistration may be requested after one year from the effective date of registration given on the registration certificate, if the taxable person's turnover did not exceed CZK 1million in the immediately preceding 12 calendar months.

The VAT authorities may also cancel the registration of a VAT payer that does not make any taxable supplies within 12 calendar months without providing a suitable explanation.

Late Registration Penalties

A taxable person that is established, has a fixed establishment or place of business in the Czech Republic that fails to register for VAT is obliged to pay a fine of 10% of its total income, as compensation for taxable supplies that were effected without VAT. Penalties also apply to a range of other VAT offenses (see Section I *VAT Returns and Payment*).

D. VAT Rates

In the Czech Republic, the term "taxable supplies" refers to supplies of goods and services that are liable to a rate of VAT. The term "exempt supplies" is used for supplies of goods and services that are within the scope of VAT but are not taxed. Exempt supplies generally do not give rise to a right of deduction for related input VAT (see Section F *Recovery of VAT by Taxable Persons*). These supplies are sometimes referred to as "exempt without credit". Some supplies are classified as "exempt with credit" or "zero rated", which means that no VAT is chargeable, but the supplier may recover input tax related to the supply.

Two rates of VAT currently apply – the standard rate at 19% and the reduced rate at 5%. The 19% standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the reduced rate or exemption.

The following table lists the Czech VAT treatment applicable to a range of supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Postal services
Television and radio broadcasting
Insurance
Financial services
Transfer of real estate
Education

Examples of Exempt with Credit (Zero Rated) Supplies of Goods and Services

Exported goods
Intra-community supplies of goods
International passenger transportation
Transport and services directly related to the importation and exportation of goods

Examples of Exempt Supplies of Goods and Services

Betting and gaming
Social welfare

Examples of Exempt with Credit (Zero Rated) Supplies of Goods and Services

Supplies of goods in a free zone or a free warehouse with effect from 1 January 2005

Examples of Goods and Services Taxable at 5%

| | |
|--|---|
| The majority of the foodstuffs | Certain medical equipment and pharmaceuticals |
| Repairs and work on medical instruments | Medical and social care (unless exempt) |
| Non-alcoholic beverages | Children's car safety seats and diapers |
| Water distribution and treatment of sewage | Books and magazines |
| Public transportation | Cultural activities |
| Water and air passenger transport | Funeral services |

E. Time of Supply

VAT is charged at the time when a taxable supply is carried out, or when payment for the supply is accepted, whichever occurs earlier (referred to as the tax point).

Goods

The taxable supply is generally considered to be effected on the date of supply (delivery) if the goods are delivered based on a purchase contract, otherwise the tax point is on the day that the goods are adopted.

Services

The tax point for services is generally:

- When the service is performed; or
- When an invoice is issued.

Other time of supply rules may apply to specific supplies of goods and services.

Imported Goods

The time of supply for imported goods is either the date of release of goods for free circulation (or another customs procedure that leads to a liability to pay VAT) or the date when the goods leave a duty suspension regime.

Intra-community acquisition of goods VAT is charged at the earliest of the following events:

- On the date of issue of the invoice; or
- On the 15th day of the month following the month when the supply took place.

Reverse Charge Services

The time of supply for reverse charge services is the earliest of the following events:

- When the Czech buyer receives the service; and
- When the invoice is issued.

F. Recovery of VAT by Taxable Persons

A VAT payer may recover input tax, which is VAT charged on goods and services supplied to him for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within the Czech Republic, VAT self-assessed on intra-Community acquisitions of goods and VAT paid on imports.

A VAT payer proves his entitlement to VAT deduction with a valid tax document.

Non-Deductible 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 table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

The purchase of passenger cars unless purchased for resale

Business entertainment

Non-business expenditure

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Passenger car maintenance costs

Car hire

Fuel for vehicles

Books

Conferences

Advertising

Accommodation

Mobile phones

Partial Exemption

A Czech VAT payer is entitled to a full VAT deduction in respect of purchases used to make taxed supplies (that is, supplies that are liable to a rate of VAT), certain other supplies that fall outside the scope of Czech VAT (with the place of supply abroad) and supplies that are exempt with credit. A VAT payer is not entitled to deduct input tax on supplies that are exempt without credit. If a VAT payer makes both exempt supplies and taxable supplies it may not recover input tax in full. This situation is referred to as “reduced deduction” or “partial exemption.”

The amount of input tax that may be recovered by a Czech entity is calculated in two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxed supplies. Input tax directly allocated to exempt supplies without credit is not deductible. Input tax directly related to taxed supplies is recoverable in full.
- The second stage prorates the remaining input tax that relates to both taxed and exempt supplies to allocate a portion to taxed

supplies. This treatment applies, for example, to the input tax on general business overheads. The ratio is basically based on the value of taxed and exempt with credit supplies, compared with total turnover. No other methods are allowed.

Input VAT deduction must be reduced proportionally if the supplies are used for both economic activities and for private use. If the input VAT deduction was claimed in full, the private use must be taxed.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the taxable period in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period or when the use of the capital goods changes. For example, a taxable person that acquired an asset and recovered VAT in full at the time of its acquisition must adjust the amount of recovery if the asset is later used for an exempt activity. In contrast, if the asset was originally acquired for an exempt activity, so that no input VAT was reclaimed, but the asset is later put to a fully taxable use, input tax may be recovered when the use changes.

In the Czech Republic, the adjustment applies to long-term tangible assets (greater than CZK 40,000) and intangible assets (greater than CZK 60,000), if a change in use applies to the asset within five calendar years of its acquisition.

The adjustment period is 5 years, beginning with the calendar year of the acquisition of the asset and lasts the subsequent 4 calendar years. In the tax period of acquisition, the input VAT is deducted according to whether and to what extent the goods are used for taxable activities. A portion of the total input VAT must be adjusted according to the use of the goods (exempt or taxable) in that particular year.

No change need be made if the difference between the use in the current year and in the first year is less than 10 percentage points.

Refunds

If the amount of VAT recoverable in a month exceeds the amount of VAT payable, the taxable person has a VAT credit. A refund of the VAT credit may be claimed, by submitting the VAT return. The Czech VAT authorities generally make repayments within 30 days of the filing deadline for the return.

G. Recovery of VAT by Non-Established Businesses

The Czech VAT authorities refund VAT incurred by businesses that are neither established in the Czech Republic nor registered for VAT there. For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive.

Refunds according to the 13th Directive are made on the principle of reciprocity. A non-established business is permitted to

claim a refund if it is established in a country that refunds VAT to Czech VAT payers. Currently, Norway and Switzerland are the only countries that qualify.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

A non-established business may request a refund of VAT by filing an application to the following address:

The Financial Authority for Prague 1
Stepanska 28
112 33
Prague 1
Czech Republic

The claim must be filed using the printed form issued by the Czech Ministry of Finance. The application must be completed in the Czech language.

An application for a refund of tax must be accompanied by the following documents:

- The tax documents or documents proving the purchase of the goods or service, such documents must be issued by the VAT payer and must comply with the provisions of the Czech VAT Act;
- Confirmation that the claimant is a VAT payer in another EU member state or a third country; this confirmation must have been issued by the financial authority in the country where the foreign person (applicant) is registered for VAT; and
- Confirmation that the claimant has not supplied goods or services in the Czech Republic in the current year (except for supplies subject to reverse charge procedure).

The claim period is a minimum of three calendar months (unless the period in question represents the remainder of the calendar year) and a maximum of one calendar year. Applications for a refund must be submitted within 6 months after the end of the calendar year in which the relevant invoices were issued, that is, by 30 June of the following year. Claims that are not filed in time will be rejected.

The minimum claim for a period of less than year but not less than 3 months is CZK 7,000; for an annual claim or for a remaining period of the year the minimum amount is CZK 1,000. The tax authorities must repay the VAT within 6 months from the date the claim was submitted by an EU entrepreneur or from the date when any errors or omissions of the claim were corrected.

H. Invoicing

VAT Invoices and Credit and Debit Notes

A Czech VAT payer must generally provide a VAT invoice for all taxable supplies made to another VAT payer and for exports (for domestic transactions, only upon request). Invoicing may be delayed up to 15 days after the tax point (see Section E *Time of Supply*). A VAT invoice is necessary to support a claim for input tax deduction or a refund to a non-established business.

If a VAT payer is required to account for VAT on the private use of business assets, it must issue “a document of use” similar to a VAT invoice. This document of use may not be used to support a claim for input tax deduction.

A taxable person is not obliged to issue a valid tax document for a supply that is exempt without credit.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The value of the supply may be reduced only if a supply is cancelled, returned (in full or in part) or if there is a contractual price reduction. A VAT debit note must be used to increase the value of the supply if there is a price increase or, if based on the agreed contractual terms, the final payment is higher than the price quoted on the original VAT invoice.

The amount of VAT credited or debited must be separately itemized on the credit or debit note. It must be cross-referenced to the original VAT invoice and contain generally the same information.

Proof of Exports and Intra-Community Supplies

Czech VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, an export supply must be accompanied by official customs evidence (the single administrative document “JSD”) stating that the goods have left the Czech Republic. If the export is not approved by the Customs Authorities, the taxable person may provide other evidence to prove that the conditions for obtaining exemption have been met.

Czech VAT is not chargeable on goods supplied to taxable persons in other EU countries (see the chapter on the European Union). For a sale to another EU country to qualify as an intra-Community supply, the supplier must prove that goods have been delivered to the other EU country by a Czech VAT payer, customer or third party authorized by a Czech VAT payer or customer. Suitable proof includes transportation documents, written statements by the customer or an authorized third party or other similar documentation.

Foreign Currency Invoices

A Czech VAT invoice may not be issued only in a foreign currency. If a foreign currency is used, all values for VAT purposes must be converted to Czech crowns (CZK).

For the purpose of VAT, the exchange rate used to convert foreign currency is the rate given by the Czech National Bank valid for the VAT payer for the date when the VAT is charged.

I. VAT Returns and Payment

VAT Returns

Czech VAT returns are generally submitted for monthly periods. VAT payers with a quarterly taxable period must file VAT returns quarterly. Non-established businesses file VAT returns quarterly.

VAT returns must be filed within 25 days of the end of the tax period. Payment in full is required at the same time. VAT liabilities must be paid in Czech crowns. A “nil return” must be filed if no taxable transactions have taken place in the period.

Penalties

Penalty interest is charged for the late payment of VAT due on a return at the rate of 0.1% per day.

A penalty is charged in the following amounts if the amount of VAT due for a period is under declared on the VAT return:

- 0.05% per day if the taxpayer notifies the tax authorities of the error in a supplementary declaration; or
- 0.2% per day if the Czech tax authorities discover the error.

These penalty amounts apply up to a maximum 500 days. After that, interest is charged at a rate of 140% of the Czech National Bank discount rate for the first day of the relevant calendar quarter.

If the VAT return is submitted late, the declared VAT may be increased by 10%.

J. EU Declarations**INTRASTAT**

A Czech 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 calendar year 2005 is CZK 2 million.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is CZK 4 million.

The INTRASTAT return period is either monthly. Intrastat reports should be submitted to the competent Customs Authority by the 12th working day of the month following the calendar month to which they relate.

A penalty may be imposed for late submission or for missing or inaccurate declarations.

EU Sales Lists

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

ESLs must be submitted quarterly by the 25th day following the end of the quarter.

Penalties may be imposed for late, missing and inaccurate ESLs.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name (Momsloven) | Merværdiafgiftsloven |
| Date Introduced | 3 July 1967 |
| European Union (EU) Member State | Yes |
| Administered by | Central Customs and Tax Administration http://www.toldskat.dk |
| VAT Rates | |
| Standard | 25% |
| Other | Zero-Rated, Exempt, Exempt with Credit |
| VAT Number Format | DK 12 34 56 78 |
| VAT Return Periods | Monthly Quarterly (annual turnover between DKK 1 million and DKK 15 million) Six Monthly (annual turnover below DKK 1 million) |
| Thresholds | |
| Registration businesses | DKK 50,000 a Year (for busi- nesses established in Denmark) None (for businesses established elsewhere) |
| Distance Selling | €35,000 |
| Intra-Community Acquisitions | DKK 80,000 a Year (for busi- nesses exempted from VAT) |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Denmark by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in Denmark; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

C. Who Is Liable

The term “taxable person” means any entity or individual that makes taxable supplies of goods or services or intra-Community acquisitions or distance sales, in the course of a business.

The VAT registration threshold is turnover of DKK 50,000 a year for a business resident in Denmark. No registration threshold applies for a non-established business (that is, VAT registration is required as soon as a non-established business begins making supplies subject to VAT in Denmark).

Group Registration

Groups of companies or related entities may request registration as a single taxable person (VAT group). If both VAT-registered and VAT exempted companies form a VAT group registration, the parent company must be included in the VAT group. All group members must be 100% owned by the parent company and established in Denmark.

The effect of VAT grouping is that no VAT is charged on supplies between group members. However, if any member of the group has exempt activities, the group must deduct input VAT on a pro rata basis. The group members are jointly and severally liable for any VAT on transactions with third parties.

Non-Established Businesses

A non-established business must register for Danish VAT if it makes any of the following supplies:

- Goods that are located in Denmark at the time of supply;
- Intra-Community acquisitions in Denmark;
- Distance sales in excess of the annual threshold; or
- Services that are not subject to the tax under the “reverse charge” mechanism (for example, services supplied to private persons).

Tax Representatives

Businesses established in the following countries are not required to appoint a tax representative in order to register for Danish VAT: EU Member States, Norway, Greenland, the Faroe Islands, Iceland and the Aland Islands. Businesses established in these countries may choose, however, to appoint a tax representative to register for VAT. While this is not obligatory, it is recommended.

VAT registration for non-established taxable persons from EU Member States, Norway, Greenland, the Faroe Islands, Iceland and the Aland Islands may be conducted through the following office:

ToldSkat Sydjylland
 Hilmar Finsensgade 18
 DK-6400 Sønderborg
 Denmark

Businesses established in other countries are required to appoint a Danish resident as tax representative in order to register for VAT. The representative and the nonresident business are jointly and severally liable for VAT liabilities.

The Danish VAT authorities may require a non-established taxable person to provide security equal to its expected VAT liability for a period of three months. This may happen if the VAT authorities believe there is a risk that the non-established business may not pay its indirect tax obligations.

Late Registration Penalties

No specific penalty is levied for late VAT registration. However, a penalty may be charged of up to twice the VAT amount due in the period during which the business was not registered.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services, intra-Community supplies of goods, and intangible services supplied to either another taxable person established in the European Union or any recipient outside the European Union (see the chapter on the European Union).

In Denmark, two rates of VAT currently apply – the standard rate at 25% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Medical services
 Education
 Finance
 Insurance
 Supplies made by writers, composers and performing artists
 Cultural services
 Transport of passengers
 Investment gold
 Real estate transactions

Examples of Goods and Services Taxable at 0%

Newspapers
 Supplies to ships
 Supplies of gold to the Danish National Bank

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when they are delivered; the basic time of supply for services is when they are performed.

In Denmark, VAT is due when the invoice is issued, which is normally at the time of supply. In practice, however, the Danish VAT authorities will accept invoices that are issued after the time of supply if that is the taxable person's normal business practice.

Prepayments

The time of supply for an advance payment is when the supplier receives the payment, even if the supply has not yet been made. A final time of supply occurs when the supply has been completed.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice prior to this date, the time of supply is when the invoice is issued.

Imported Goods

The time of supply for imported goods is the date of the customs clearance, or when the goods leave a duty suspension regime.

Reverse Charge

Certain services imported from outside Denmark by a taxable person are subject to the tax under the “reverse charge” mechanism, which means that the recipient of the service must account for VAT. The time of supply for a reverse charge service is the VAT period in which the service is supplied or the period in which the invoice is issued, if the invoice is issued shortly after the supply.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Denmark, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business gifts if the value is more than DKK 100
 Purchase, lease or hire of a private car
 Maintenance costs for a private car
 Employee meals and entertainment

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

25% hotel accommodation
 Books
 Long term lease of cars used for business (a proportion)
 Attendance at conferences, seminars and exhibitions
 25% of a business meal for entertaining clients
 50% of home telephone bill

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Danish taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes.

The amount of input tax that may be recovered is calculated in two stages:

- The first stage is the direct allocation of VAT to exempt and taxable supplies. Input tax directly allocable to exempt supplies is not deductible.
- The second stage is to prorate the remaining input tax that relates to both taxable and exempt supplies (for example, VAT incurred on business overheads) based on the percentage of taxable supplies to total supplies made. The pro rata calculation must be performed each year. The recovery percentage is rounded up to the next whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period.

In Denmark, the capital goods adjustment applies to the following assets for the number of years indicated:

- Land and buildings including additions and alterations (adjusted for a period of 10 years);
- Repair, maintenance and renovation of land and buildings if the annual cost exceeds DKK 75,000 (adjusted for a period of five years); and
- Items of machinery, equipment and furniture costing more than DKK 75,000 (adjusted for a period of five years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for land and buildings and $\frac{1}{5}$ for other capital goods). The adjustment may result in either an increase or a decrease of deductible input VAT, depending

on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable, a refund may be claimed by submitting the VAT return form.

G. Recovery of VAT by Non-Established Businesses

The Danish tax authorities refund VAT incurred by businesses that are neither established nor registered for VAT in Denmark. A non-established business is allowed to claim Danish VAT to the same extent as a VAT-registered business. Refunds are made under the terms of the EU 8th and 13th Directives. In practice, Denmark does not exclude businesses from any non-EU countries from the recovery scheme.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes, see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following that in which the tax was incurred.

Claims must be submitted in Danish, but in practice, claims in English or German may also be accepted. The application for a refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is DKK 1,500. For an annual claim, the minimum amount is DKK 200.

Applications for refunds of Danish VAT may be sent to the following office:

ToldSkat Sydjylland
Hilmar Finsensgade 18
DK-6400 Sønderborg
Denmark

Repayment Interest

The Danish VAT authorities do not pay interest to claimants for refunds made under the EU 8th and 13th Directives.

H. Invoicing

VAT Invoices and Credit Notes

A Danish taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice and contain the same information.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Denmark. Acceptable proof includes the following documentation:

- For an export, the seller must retain the signed customs documentation with a pro forma invoice and commercial evidence such as customer orders and contracts; and
- For an intra-Community supply, the seller must indicate the customer's VAT identification number (from a different EU country) and must retain commercial documentation, such as purchase orders, transport documentation, and evidence of both payment and receipt of goods.

Foreign Currency Invoices

A Danish VAT invoice may be issued in Danish kroner (DKK) or Euros. If another currency is used, the amount of VAT must be converted into Danish kroner, either by using the current rate of exchange or the official monthly rate of exchange published by the Danish VAT authorities.

I. VAT Returns and Payment

VAT Returns

A Danish taxable person whose turnover exceeds DKK 15million must submit VAT returns on a monthly basis. A taxable person with a turnover of between DKK 1million and DKK 15million must submit returns quarterly. A taxable person with turnover of less than DKK 1million must submit returns half yearly.

Monthly VAT returns and payment are due by the 25th day of the month following the return period. Quarterly VAT returns and payment are due by the 10th day of the second month following the end of the return period. Half yearly VAT returns and payment are due by the 1st day of the third month following the end of the return period.

A Summer VAT relief scheme allows payment for the June period to be made on 10 August.

Returns must be completed and liabilities must be paid in Danish kroner.

Penalties

The penalty for the late submission of a VAT return is DKK 65 per reminder for payment. The penalty for late payment of VAT is 1.1% of the VAT due for the period.

J. EU Declarations

INTRASTAT

Danish taxable persons that trade with other EU countries must complete statistical reports, known as INTRASTAT, if the value

of their sales or purchases exceeds certain thresholds. There are separate reports for intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches). The threshold for INTRASTAT Arrivals for the calendar year 2005 is DKK 1.6 million.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is DKK 4.1million.

Danish taxable persons must complete INTRASTAT declarations in Danish kroner. Euros may not be used.

The INTRASTAT return period is monthly. The submission deadline is the 10th day of the month following the end of the INTRASTAT return period.

If a report is late or missing, a fine of DKK 550 is imposed.

EU Sales Lists

If a Danish taxable person makes intra-Community supplies in any return period, it must submit an EU Sales List (ESL). No ESL return need be submitted for any period when no intra-Community supplies have been made.

ESLs are submitted quarterly, half-yearly or annually, depending on turnover amounts.

A business may submit an annual ESL if its total turnover does not exceed DKK 300,000 and its intra-Community supplies do not exceed DKK 120,000 a year.

A business may submit half-yearly ESLs if its total turnover does not exceed DKK 1.6 million and its intra-Community supplies do not exceed DKK 120,000 a year.

Quarterly ESLs are due the 10th day of the second month following the end of the quarter. Half-yearly VAT returns are due the 1st day of the third month following the six-month period. The deadline for annual ESLs is the 1st day of the third month following the twelve-month period.

ESLs must be completed in Danish kroner.

If an ESL is late, missing or incorrect, a fine of DKK 65 is imposed.

DOMINICAN REPUBLIC

Please direct all inquiries regarding Indirect Taxes in the Dominican Republic to Rafael Sayagues or Hans Erich Simonsen based in the Costa Rica office.

Indirect Tax Contact

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Rafael Sayagues

506 204-9029

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Indirect Tax Contacts

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Mauricio Núñez (*Senior Manager*)

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 31 December 1981 |
| European Union (EU) Member State | No |
| Administered by | The Internal Revenue Service http://www.sri.gov.ec |
| VAT Rates | |
| Standard | 12% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | Tax Identification Number (known as the "RUC" for example, 1791255708001) |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Ecuador by a taxable person; and
- The importation of goods from outside Ecuador, irrespective of the status of the importer.

C. Who Is Liable

A VAT taxpayer is any business entity or individual that transfers goods or performs services in the course of doing business in Ecuador. No registration threshold applies. The definition of a VAT taxpayer also applies to a permanent establishment of a foreign business located in Ecuador.

Group Registration

VAT grouping is not allowed under the Ecuadorian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Ecuador. A non-established business must register for VAT if it supplies goods or services in Ecuador.

Late Registration Penalties

Penalties and interest are assessed for late registration for VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Ecuadorian Taxable Persons*).

In Ecuador, two rates of VAT currently apply – the standard rate at 12% and the zero rate (0%). The standard rate applies to all supplies of goods or services, unless a specific provision allows the zero rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Sale of a business
Mergers, spin-offs and conversions of companies
Donations to charities
Transfer of stock, shares and other negotiable instruments

Examples of Goods and Services Taxable at 0%

Unprocessed food
Agricultural goods (such as certified seeds, plants and roots) and equipment
Drugs and veterinary products
Paper, newspapers, magazines, books and publishing services
Exported goods
Transport of persons and materials and air cargo transport
Education
Health services
Public supply of electricity, drinking water and sewerage services
Real estate transactions
Services rendered by professionals up to \$400

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply is when the goods are transferred or when the services are performed. The invoice for the transaction must be issued at the time of supply.

Imported Goods

The time of supply for imported goods is either the date of importation or when the goods leave a duty suspension regime.

F. Recovery of VAT by Ecuadorian Taxable Persons

In certain circumstances, a taxable person may recover input tax (or credit VAT), which is VAT charged on goods and services supplied to it for business purposes. Input tax includes VAT charged on goods and services supplied within Ecuador and VAT paid on imports of goods. Input tax is generally recovered by being deducted from output tax (or debit VAT), which is VAT charged on supplies made. A claim for refund is required to recover VAT by taxpayers that export their products.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Stationery
Cleaning supplies
Petty cash expenses

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Raw materials
Acquisition of assets
Electric energy
Rent

Input Tax Credit System – Full Input Tax Credit

VAT taxpayers that produce goods or supply services subject to the 12% VAT rate may recover input tax in full on local acquisitions. The same treatment applies to VAT taxpayers that export goods and services. These taxpayers may also recover input tax in respect of imports of fixed assets, and in respect of goods, raw materials and services necessary to produce and trade taxable goods and services.

Input Tax Credit System – No Input Tax Credit

Taxpayers that exclusively produce or sell goods, or supply services that are subject to VAT at the zero rate (other than exports of goods or services), are not entitled to any input tax recovery.

Input Tax Credit System – Partial Input Tax Credit

VAT taxpayers that supply goods or render services that are subject to VAT at both rates (12% and 0%) may recover a proportion

of input tax. The recovery percentage is calculated using a pro rata, based on the total value of supplies made at the standard rate (12%) plus exports, over the total value of all supplies made.

Repayments

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

G. Recovery of VAT by Non-Established Businesses

Ecuador does not refund VAT incurred by foreign businesses unless they have a permanent establishment in Ecuador.

H. Invoicing

VAT Invoices and Credit Notes

A VAT taxpayer must generally provide an invoice for all taxable supplies made, including exports. An invoice is necessary to support a tax credit.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must include the number of the original invoice.

Exports

Ecuadorian VAT is not chargeable on supplies of exported goods or services. However, to qualify as VAT-free goods, exports must be supported by customs documents, as evidence that the goods have left Ecuador.

Foreign Currency Invoices

Invoices related to supplies made in Ecuador must be issued in US dollars (\$).

I. VAT Returns and Payment

VAT Returns

VAT returns are generally submitted monthly. VAT returns and payment in full are due between the 10th and the 28th day of the month following the end of the return period. A VAT taxpayer's tax identification number (RUC) determines its filing deadline.

VAT taxpayers that supply goods and services exclusively at the zero rate may, in certain circumstances, submit VAT returns every six months.

VAT Tax returns must be paid in US dollars.

Penalties

A range of penalties is assessed for errors and omissions connected with VAT accounting, including late filing of a VAT return or late payment of the tax. The interest rate for late payment is set every quarter (it was 0.885% as of 31 December 2004).

Penalties for noncompliance with VAT obligations include fines of up to five times the amount lost to the revenue, closure of the business and imprisonment.

EL SALVADOR

Country Code 503

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San Salvador, El Salvador

Please direct all inquiries regarding VAT in El Salvador to Rafael Sayagues or Hans Erich Simonsen based in the Costa Rica office

Indirect Tax Contacts

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 Hans Erich Simonsen

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506 204 9074

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto a la Transferencia de Bienes Muebles y a la Prestación de Servicios (ITBMS) |
| Date Introduced | July, 1992 |
| European Union (EU) Member State | No |
| Administered by | The Ministry of Finance http://www.mh.gob.sv |
| VAT Rates | |
| Standard | 13% |
| Other | Exempt |
| VAT Number Format | Tax Identification Number (known as the "NIT") |
| Vat Return Periods | Monthly |
| Thresholds | |
| Registration | Annual Turnover of SVC 50,000 and Fixed Assets of SVC 20,000 |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The taxable supply of goods or services made in El Salvador by a taxable person;
- The purchase of imported services by a taxable person in El Salvador; and
- The importation of goods from outside El Salvador, irrespective of the status of the importer.

C. Who Is Liable

Any business entity or individual whose annual turnover exceeds SVC 50,000, or that owns fixed assets valued at SVC 20,000 or more, must register for VAT. The requirement to register also applies to the permanent establishment in El Salvador of a foreign business.

Voluntary Registration

A business whose turnover is below the registration threshold may register for VAT voluntarily.

Group Registration

VAT grouping is not allowed under the El Salvadorian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of El Salvador. In principle, a non-established business must register for VAT if it supplies goods or services in El Salvador on a regular basis. In order to register for VAT, a non-established business must provide the VAT authorities with a copy of its articles of incorporation, legalized by a Salvadorian consulate, together with an official translation into Spanish, together with additional documentation required by the tax authorities.

D. VAT Rates

There are exempted activities and zero-rated activities. Unlike zero-rated activities, exempted activities do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). In El Salvador, the standard rate of VAT is 13%. The standard rate applies to all supplies of goods or services, unless a specific provision allows an exemption.

The following table lists examples of exempt supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

| | |
|--|---|
| Health services offered by public institutions | Education Certain Financial services |
| Rental of houses and apartments for noncommercial purposes | Water services offered by public entities |
| Public transport | Personal insurance services and reinsurance |
| The importation of machinery used as a fixed asset in the production of goods and services | |

E. Time of Supply

The taxable event when VAT becomes due is called the “tax point.”

For a supply of goods, the tax point is the earliest of the following events:

- The issue of the invoice, receipt or other document related to the transaction;

- Delivery of the goods; and
- Receipt of payment.

For a supply of services, the tax point is the earliest of the following events:

- The issue of the invoice, receipt or other document related to the transaction;
- Provision of the service; and
- Receipt of payment.

Continuous Supplies of Services

For a continuous supply of services rendered in return for periodic payment, the tax point is the earlier of the issuance of the invoice or receipt of payment or the due date established for the periodic payment.

Imported Goods

The time of the supply for imported goods is when the goods clear all customs formalities for importation.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT paid on the purchase of goods and services supplied to it for business purposes. Input tax is generally credited against output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied within El Salvador, VAT paid on imports of goods and VAT self-assessed on reverse charge services. In general, input tax credit is allowed on ordinary business expenditure that is indispensable to the taxpayer's taxable activity (that is, the business activity that generates output tax).

A valid tax document referred to as "proof of tax credit" must accompany every claim for input tax credit.

Non-Deductible 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).

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxable person has an input VAT credit. The credit may be carried forward to offset against output tax in subsequent VAT periods.

A cash refund may be claimed only if the credit relates to export activities. An input VAT credit related to export supplies may be carried forward to offset against output VAT in the following VAT period, or it may be used to offset against other tax liabilities. If the credit may not be offset fully against VAT or other tax liabilities, the taxable person may request a refund of the excess.

G. Recovery of VAT by Non-Established Businesses

El Salvador does not refund VAT incurred by foreign or non-established businesses unless they are registered for VAT in El Salvador.

H. Invoicing

Tax Credit Documents, Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. However, for supplies made to other VAT taxpayers, a “proof of tax credit” must be issued. A proof of tax credit document is necessary to support a claim for input tax credit. Proof of tax credit documents must be issued in triplicate (with two copies going to the purchaser of the goods or services).

If the nature of a business makes it impractical for a taxable person to issue tax invoices, the VAT authorities may authorize the use of cash registers and computerized systems to issue tickets (cash receipts) instead of invoices.

A VAT credit note, as well as price reductions, discounts or bonus may be excluded from the VAT taxable base. A credit note must contain the same information as a tax credit document.

Exports

VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that give evidence that the goods have left El Salvador. Suitable evidence includes export invoices and bills of lading.

Foreign Currency Invoices

VAT invoices and tax credit documents may be issued in Salvadorian colons (SVC) or US dollars (\$).

I. VAT Returns and Payment

VAT Returns

VAT returns are submitted monthly. Returns must be submitted by the 10th day of the month following the end of the return period. Payment in full is due on the same date. A return must be filed, even if no VAT is due for the period.

Tax due may be paid in Salvadorian colons or US dollars.

Penalties

Penalties for VAT errors may vary from 5% up to 100% of the VAT amount due. For some offenses, the penalty may be computed based on the minimum legal wage and may vary from one to twenty times the minimum legal wage.

“Tax evasion” is a criminal offense. Penalties provided for tax evasion under the Salvadorian Criminal Code include imprisonment for a period from one to six years.

ESTONIA

Country Code 372

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Käibemaksuseadus |
| Date Introduced | 1 January 1991 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004). |
| Administered by | The Ministry of Finance http://www.fin.ee Estonian Tax and Customs Board http://www.emta.ee |
| VAT Rates | |
| Standard | 18% |
| Reduced | 5% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | EE123456789 |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | EEK 250,000 |
| Distance selling | EEK 550,000 |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Estonia by a taxable person;
- Reverse charge services received by a taxable person in Estonia (that is, services for which the recipient is liable to pay the VAT);
- The intra-community acquisition of goods (see the chapter on the European Union) and
- The importation of goods into Estonia, irrespective of the status of the importer.

C. Who Is Liable

A taxable person is a business entity or individual that makes taxable supplies of goods or services, in the course of a business, in Estonia. This rule applies to a branch or permanent establishment of a foreign business entity.

The VAT registration threshold is annual supplies in excess of EEK 250,000. A business that exceeds the threshold must notify the VAT authorities of its liability to register for VAT within three days.

Distance Sales

If a taxable person established in another Member State is engaged in distance selling to a person in Estonia (excluding distance selling of excise goods) and the taxable value of the distance sales exceeds EEK 550,000, from the beginning of a calendar year, the registration obligation for the vendor arises from the date when the threshold was exceeded (see the chapter on the European Union).

Intra-Community Acquisitions

If the taxable value of the intra-Community acquisitions acquired by a non-taxable person (except excise goods and new means of transport) exceeds EEK 160,000 from the beginning of a calendar year, the obligation to register as a taxable person with limited liability arises from the date when the threshold was exceeded (see the chapter on the European Union).

Special rules apply to foreign or “non-established” businesses.

Voluntary Registration

A business established in Estonia whose supplies do not exceed the registration threshold may register for VAT voluntarily.

Group Registration

A parent company and its subsidiaries may apply to register as a VAT group. Each member in the group is registered for VAT separately, but the VAT group is treated as a single taxable person. The effect of grouping is that no VAT is charged on supplies between group members, if the person who acquired the goods or services as a result of the transaction uses them entirely for the purposes of that person’s taxable supplies. Group members are jointly and severally liable for all VAT liabilities.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Estonia. A non-established business must register for VAT if it makes taxable supplies of goods or services regardless of the amount of supply (that is, with effect from the first supply). A registered branch or resident legal person must be registered for VAT if it makes taxable supplies in Estonia totaling more than EEK 250,000 starting from the beginning of the calendar year.

Tax Representatives

Upon registration as a taxable person, a foreign taxable person with no permanent establishment in Estonia may designate a tax representative. The tax representative must be located in Estonia and be accepted by the tax authorities.

Deregistration

A taxable person that ceases to be eligible for VAT registration must deregister (that is, it must notify the VAT authorities that it must cease to be registered).

A taxable person may also request deregistration if its taxable turnover drops below the annual registration threshold. However, deregistration is not compulsory in these circumstances.

Late Registration Penalties

Penalties and interest are assessed for late registration for VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services not liable to tax which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Estonia, currently three rates of VAT apply – the standard rate at 18%, the reduced rate at 5% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the reduced rate, the zero rate, or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at reduced and zero rates of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Supplies of Goods and Services Taxable at 0% | Examples of Supplies of Goods and Services Taxable at 5% |
|--|--|--|
| Healthcare services | Exports of goods | Medical equipment and products |
| Real estate transactions | Listed exported services | Books (excluding textbooks and workbooks related to the national curriculum) |
| Financial services | Intra-community supplies of goods | Handling hazardous waste |
| Insurance and reinsurance services | Sea-going vessels, equipment, spare parts and fuel for sea-going vessels | Certain concerts and opera performances |
| Educational services | | Residential heating |
| Lotteries and gaming | | Periodicals |
| Postal services | | Accommodation |
| Learning materials related to education | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods and services is the earliest of the following events:

- The delivery of goods; or
- The performance of services; and
- Receipt of full or partial payment.

Imported Goods

The time of supply for imports is when the goods clear customs.

Reverse Charge Services

Estonian businesses must self assess VAT on taxable services purchased from abroad, using the reverse charge mechanism.

Under the reverse charge, the purchaser self assesses VAT at the appropriate rate. The self-assessed tax is treated as input tax and recovered (depending on the purchaser's partial exemption status, see Section F *Recovery of VAT by Taxable Persons*). The reverse charge does not apply for supplies to private individuals who are not registered for VAT.

The reverse charge applies to the following services:

- Transfer of intellectual property rights;
- Advertising services;
- Consulting, accounting, legal, auditing, engineering, translation services, data processing or information services, and electronically supplied services;
- Financial services and insurance services, including reinsurance;
- The supply of staff;
- The hire or lease of movable tangible property, except means of transport;
- Telecommunications services, including assignment of rights to use transmission lines;
- Broadcasting services;
- The repair, valuation, processing or assembly of movable goods transported to another Member State, if the goods are returned to Estonia (see chapter on the European Union);
- The intra-Community transport of goods from one Member State to another, including the carriage of goods to or from Estonia, services of organizing intra-Community transport of goods and related ancillary services (see chapter on the European Union); and
- Services of agents in procuring one of these services.

Although financial and insurance services are subject to the reverse charge, no output VAT or input VAT is calculated on these services.

The time of supply for reverse charge services is the earliest of the following events:

- When the Estonian buyer receives the service; and
- When the Estonian buyer makes a payment.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on supplies of goods and services used for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied within Estonia, VAT paid on imports of goods and VAT self-assessed for reverse charge services received outside Estonia.

A valid tax invoice or customs document must generally support a claim for input tax.

Input VAT is deductible if an invoice has been issued and the goods or services have been supplied or if full or partial payment is made.

An invoice may be issued on paper or, subject to acceptance by the acquirer of goods or the recipient of services, by electronic means.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business and employee entertainment
Business use of home telephone

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Hotel accommodation for a business trip
Business gifts (valued at less than EEK 50)
Parking
Mobile phones
Travel expenses

Partial Exemption

Input tax directly related to making exempt supplies is generally not recoverable. If an Estonian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption.

In Estonia, the amount of input tax that a partially exempt business recovers may be calculated in one of two ways – the general pro rata or a two-stage calculation including direct attribution of input tax.

The first method is a general pro rata calculation, based on the percentage of taxable and total supplies in the previous calendar year. The recovery percentage is used provisionally during the current year and is adjusted at the end of the year, based on the actual value of taxable and total supplies made.

The second method is a two-stage calculation:

- The first stage identifies input VAT that may be directly allocated to taxable and exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered. The calculation is performed using the general pro rata calculation based on values of supplies made.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time,

if the taxable person's partial exemption recovery percentage changes during the adjustment period.

In Estonia, the capital goods adjustment applies to fixed assets for a period of five years. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

A capital goods adjustment is also required if a taxable person transfers immovable property used for less than ten years if the supply is exempt from VAT. In these circumstances, the taxable person must recalculate its entitlement to input tax paid on acquisition of the immovable property and for related goods and services. A taxable person may opt to charge VAT on the sale, leasing of immovable property. If the transfer is subject to tax, no capital goods adjustment is required.

Refunds

If the amount of input tax that is deductible for a VAT period exceeds the amount of output tax that is chargeable in the same period, the taxable person has a VAT credit. The taxable person may choose to use the VAT credit to offset penalties, or it may request a refund. Refunds are made within 30 days of the due date for payment.

G. Recovery of VAT by Non-Established Businesses

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

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. Refunds to non-EU claimants are made on the condition of reciprocity. Estonian VAT is refunded only to claimants established in countries that refund VAT to Estonian businesses.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes see the chapter on the European Union.

Refund Application

A non-established business may request a refund of VAT by filing application form KMT. The application may be completed in Estonian or in English. It may be submitted by the non-established business or by an authorized representative to the following address:

Estonian Tax and Custom Board
Northern Regional Tax Center
Endla 8 15177
Tallinn
Estonia

The application for a refund of tax must be accompanied by the following documents:

- Original invoices to support the claim for VAT refund;
- A power of attorney, if an authorized representative is used; and
- A certificate issued within the previous 12 months by the tax authorities in the country where the claimant is established, indicating that claimant was a taxable person when it made the purchases.

Minimum VAT refund amount:

For EU taxable persons the minimum refundable is at least EEK 400 for the year or EEK 3000 for a period, longer than 3 months, but shorter than calendar year.

For non-EU taxable persons the following conditions must be met:

- The amount requested must be least 5000 EEK for the year; and
- The applicant's country must refund VAT to Estonian residents, under the same conditions.

The VAT authorities refund VAT claimed within six months from the date when the application was filed.

H. Invoicing

VAT Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. Invoices are not automatically required for retail transactions, unless requested by the customer. A VAT invoice is necessary to support a claim for input tax deduction.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply if the taxable value changes (for example, when goods are returned goods or a discount is granted). The credit note must refer to the original VAT invoice for the supply that is being amended.

Proof of Exports

Estonian VAT is not chargeable on exports of goods. An export supply must be accompanied by evidence confirming that the goods have left Estonia. Suitable evidence includes the customs export declaration, the seller's invoice, proof of payment and the purchase invoice.

The documents that certify the provision of zero rated services include: a written service agreement or written letter of intent, the purchase invoice and proof of payment.

Foreign Currency Invoices

If an invoice is issued in a foreign currency, the amount of VAT must be converted to Estonian kroons (EEK), using the official exchange rate quoted by the Bank of Estonia on the date of the transaction.

I. VAT Returns and Payment

VAT Returns

Estonian taxable persons must file VAT returns monthly. Returns must be filed by the 20th day of the month following the end of

the tax period. Payment in full is required on the same date. VAT return liabilities must be paid in Estonian kroons.

Penalties

Interest at the rate of 0.06% is charged on amounts of VAT underpaid or paid late.

A penalty of 40% of the underpaid tax applies if, in error, a taxable person understates the amount of output tax due in a period, or overstates its entitlement to input tax deduction. The penalty is increased to 100% of the underpaid tax if the taxable person deliberately underdeclares its output tax liability, or overclaims input tax deduction.

J. EU Declarations

INTRASTAT

A 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 INTRASTAT return period is either monthly or quarterly, depending on whether the taxable person submits monthly or quarterly VAT returns. The submission deadline is the same as for the VAT return, that is, the 20th day of the month following the return period.

A penalty may be imposed for late submission or for missing or inaccurate declarations.

EU Sales Lists

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

ESLs must be submitted on a calendar quarterly basis by the 20th day following the end of the quarter.

Penalties may be imposed for late, missing and inaccurate ESLs.

EUROPEAN UNION

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A. The Territory of the European Union (EU)

The European Union (EU) currently consists of 25 Member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

Ten countries joined the European Union on 1 May 2004. They are: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic and Slovenia. These countries are sometimes referred to as “new Member States”.

Three additional countries are negotiating for entry to the European Union: Bulgaria, Romania and Turkey. It is expected that Bulgaria and Romania will join the European Union in 2007. No date has been set for the accession of Turkey.

B. The Single Market

The Single Market was introduced in the European Union on 1 January 1993. Under the rules of the Single Market, goods may move freely between Member States without hindrance, including customs controls. As a result, the concepts of “import” and “export” no longer apply for cross-border trade between Member States.

Imports and Exports

In the European Union, the term “export” now applies to the supply of goods exported from a Member State to any country outside the European Union (also referred to as Third Countries). The term “import” now applies to goods imported into a Member State from any country outside the European Union.

After goods are imported into the European Union they are in “free circulation,” which means that they may travel within the European Union without further payment of customs duties or further border controls.

Intra-Community Supplies of Goods to Nontaxable Persons

“Nontaxable persons” are any persons or legal entities that are not registered for VAT. In the European Union, VAT is generally charged on supplies of goods made to nontaxable persons using the “origin principle,” which means that VAT applies in the Member State where the supplier of the goods is established. The rate of VAT charged, therefore, is the rate that applies to the goods in the supplier’s Member State, not the rate that would apply in the customer’s Member State. For example, if a Danish tourist buys a dress in a shop in Paris, she pays VAT at the French standard rate of 19.6%, not at the Danish standard rate of 25%, even if the dress is subsequently “exported” to Denmark. However, exceptions to this rule apply for “distance sales,” sales of “new means of transport” and sales to “nontaxable legal persons” (see below).

Distance Sales

A “distance sale” is a sale of goods dispatched or transported by (or on behalf of) the supplier from one Member State to a nontaxable person in another Member State who is not registered for

VAT. Distance sales commonly include sales of goods made by mail order catalog and goods sold online via the Internet.

Nontaxable persons generally bear VAT as a cost. Because they do not charge VAT on sales, they are not permitted to offset VAT paid on purchases. Therefore, for nontaxable persons, the rate of VAT charged directly affects the cost of the goods they buy. With the introduction of the Single Market, it was feared that the application of the origin principle of taxation could lead to distortions of competition and the loss of VAT revenues for some Member States, as nontaxable persons would have an incentive to purchase goods from suppliers located in the Member State with lowest rate of VAT. Special rules were introduced, therefore, for “distance sales” made to nontaxable persons.

If the total value of supplies by a distance seller to customers in another Member State exceeds a certain turnover threshold, the distance seller must register for VAT in that other Member State (known as the “country of destination”). VAT is then chargeable on the supply of the goods in the country of destination, at the rate applicable in that country.

The annual distance-selling threshold is set at €35,000 in the following Member States: Belgium, Denmark, Finland, Greece, Ireland, Italy, Portugal, Spain and Sweden.

The annual distance-selling threshold is set at €100,000 in the following Member States: Austria, France, Germany, Luxembourg, the Netherlands and the United Kingdom.

The annual distance selling thresholds that apply in the 10 new Member States that joined the European Union on 1 May 2004 are listed in the following table.

| | |
|-----------------|------------------------------------|
| Cyprus | CY£20,000 (roughly €35,000) |
| Czech Republic | €35,000 |
| Estonia | EEK 550,000 (€35 000) |
| Hungary | €35,000 |
| Latvia | 24 000 lats |
| Lithuania | LTL 125,000 (€36,203) |
| Malta | €35,000 |
| Poland | €35,000 |
| Slovak Republic | SKK 1.5 million (roughly €35,000). |
| Slovenia | €35,000 |

Distance sellers may also opt to be taxed in the country of destination of the goods, even if their sales do not exceed the distance-selling threshold.

Intra-Community Trade between Taxable Persons

A “taxable person” for the purpose of intra-Community trade is any person or legal entity that is registered for VAT in the European Union. As there are no customs controls between Member States in the Single Market, intra-Community transactions between taxable persons are no longer termed “imports”

and “exports” (see *Imports and Exports* above). Instead, they are referred to as “intra-Community acquisitions” and “intra-Community supplies.”

Intra-Community Supplies

As a general rule, VAT is charged on the “destination principle” on cross-border supplies of goods made between taxable persons. Under this principle, VAT is not chargeable in the Member State from where the goods are supplied (known as the “Member State of dispatch”), but is chargeable in the Member State where the goods are delivered (known as the “Member State of arrival”).

An intra-Community supply of goods is zero-rated or exempt with credit, depending on the legislation in the Member State of dispatch. This means that no VAT is chargeable, but the supplier is entitled to deduct VAT paid on purchases connected with the supply. The supplier must be able to prove that the goods have been dispatched to a taxable person in another Member State. The supplier must also quote the customer’s EU VAT registration number, including the country prefix (for example, BE for Belgium). The evidence required varies between Member States. Information about the evidence required in each Member State is listed in the chapters of the individual EU countries.

Intra-Community Acquisitions

An intra-Community acquisition is an acquisition of goods from another Member State by a taxable person. An intra-Community acquisition is taxable in the Member State of arrival, at the rate of VAT applicable in that country. As there are no customs controls, the person making the acquisition must account for the VAT due, generally using “reverse charge” accounting (see below).

If a business makes an intra-Community acquisition of goods in a Member State where it is not registered for VAT, it may be required to register there.

The Reverse Charge

Under the “reverse charge” provision the acquirer self-assesses VAT due on a supply at the rate of VAT applicable to the transaction in the Member State of arrival. The acquirer then declares the tax due as output tax (VAT on sales). If the acquirer is entitled to recover VAT on the acquisition as input tax (that is, VAT on purchases), the acquirer may offset the input tax at the same time as declaring the output tax. Therefore, an acquirer who deducts input tax in full does not actually pay any VAT in connection with an intra-Community acquisition.

Branch Transfers

A transfer of goods between different parts of the same legal entity is not generally treated as a supply for VAT purposes (for example, no VAT is charged on a transfer of goods from a factory to a warehouse owned by the same company). However, a taxable person is deemed to make an intra-Community supply and an intra-Community acquisition if it transfers goods between different parts of a single legal entity that are located in different Member States. This is referred to as a “fictitious acquisition.” A fictitious acquisition may occur, for example, when goods are moved between branches of the same company located in different

countries or when goods are stored in a warehouse in a different country after being manufactured but before being sold. If a fictitious acquisition occurs, the person transferring the goods may need to register for VAT in both the Member State of dispatch and the Member State of arrival. Further information about the requirement to register for VAT is listed in the chapters of the individual EU countries.

Certain transfers are excluded from this provision, either because they are deemed not to be acquisitions (see below) or because the goods are exempt from VAT.

Transfers Deemed Not To Be Acquisitions

Not all intra-Community movements of goods qualify as acquisitions. Exceptions include the following transfers:

- Goods to be installed or assembled for a customer in another Member State;
- Goods transported to another Member State under the distance selling rules;
- Goods that will be exported outside the European Union from another Member State;
- Goods sent to another Member State for processing (provided that the goods are returned after processing);
- Goods temporarily used in another Member State for a supply of services made there;
- Goods used temporarily (that is, for less than two years) in another Member State, provided that customs duty relief would be available if the goods were imported from outside the European Union; and
- Goods acquired from a person not registered for VAT, unless the goods acquired are a “new means of transport” (see below) or are subject to excise duties (such as alcohol and tobacco products).

Triangulation Simplification (ABC Transactions)

A “chain transaction” involves goods that are sold to different parties in a series of transactions, but are delivered directly from the first vendor in the chain to the final purchaser in the chain.

If three taxable persons that are registered for VAT in different Member States enter into a chain transaction special “triangulation” simplification rules may apply. These transactions are sometimes referred to as “ABC transactions.” For example, manufacturer A in Germany sells goods to distributor B in France but delivers them directly to B’s customer, retailer C in Italy. In these circumstances, the triangulation simplification rules may be applied. Under the normal intra-Community rules, B makes an intra-Community acquisition in C’s country under these circumstances. However, under the simplification rules, B may choose not to register for VAT in C’s country and, instead, designate C as being responsible for the VAT due. In addition, B must indicate to A that the simplification rules are being applied, and include this information on its invoice to C. In some Member States, B may also be required to notify the VAT authorities that it has chosen to use the simplification rule rather than register for VAT there. Some Member States consider carefully which party is responsible for transporting the goods to determine whether the simplification may be used.

In some Member States, the triangulation simplification rules do not apply if more than three parties are involved in the chain.

Acquisitions by Exempt Persons, Nontaxable Legal Persons and Flat-Rate Farmers

Exempt persons, nontaxable legal persons and farmers who account for VAT under a flat-rate scheme are not treated as taxable persons. Therefore, goods acquired by these persons are generally taxed according to the origin principle, that is, in the Member State of dispatch.

However, if a person in one of these categories makes intra-Community acquisitions in excess of €10,000 a year (or a higher threshold set by the Member State), it is obliged to register for and pay VAT on its acquisitions in the Member State of arrival in the same way as taxable persons, that is, using the reverse charge mechanism. However, because a nontaxable or exempt person does not generally deduct input tax, VAT due on intra-Community acquisitions must generally be paid to the VAT authorities.

These nontaxable persons may also choose to be treated as taxable persons, even if their acquisitions do not exceed the turnover threshold.

New Means of Transport

All supplies of “new means of transport” are taxed using the destination principle, that is, in the Member State of arrival, regardless of the status of the vendor or acquirer. Therefore, anyone who acquires a new means of transport (see *qualifying conditions* below) from another Member State must account for VAT. Taxable persons account for VAT in the same way as for all other intra-Community acquisitions, that is, using the reverse charge provision (described above). Nontaxable persons must pay VAT due to the VAT authorities.

The following are considered to be “means of transport”:

- Boats with a length exceeding 7.5 meters;
- Aircraft with a take-off weight exceeding 1,550 kilograms; and
- Motorized land vehicles with a capacity exceeding 48 cubic centimeters or with power exceeding 7.2 kilowatts that are intended to transport persons or goods.

In order for boats and aircraft not to be treated as “new,” both of the following conditions must be met:

- The supply of the goods must be more than three months after the date of their first entry into service; and
- They must have sailed more than 100 hours in the case of boats, and flown more than 40 hours in the case of aircraft.

In order for cars not to be treated as “new,” both of the following conditions must be met:

- They must be supplied more than six months after the date of first entry into service; and
- They must have traveled more than 6,000 kilometers.

Excise Products

Any taxable person or nontaxable legal person that acquires excise products from another Member State must register for VAT in the Member State of arrival and pay the excise duty due there.

Transportation of Goods

VAT is charged on the intra-Community transport of goods using special rules. VAT is charged by the supplier on transport services provided to nontaxable persons in the Member State where the transportation starts.

For supplies of intra-Community transport services provided to taxable persons, the supplier does not charge VAT if the taxable customer is registered for VAT in a different Member State. Instead, the taxable person accounts for VAT in the Member State where it is established, using the reverse charge mechanism.

C. Intangible Services

Complex place-of-supply rules determine how VAT is chargeable on intangible services supplied to and from the Member States of the European Union. Intangible services include the following activities:

- The transfer and assignment of copyrights, patents, licenses, trademarks and similar rights;
- Advertising services;
- Services of consultants, engineers, lawyers, accountants and similar services;
- Data processing and information supply;
- Banking, insurance and financial transactions;
- The supply of staff;
- An obligation to refrain from pursuing a business activity or one of the rights covered by this provision;
- The hiring out of movable tangible property (except means of transport);
- Telecommunication services; and
- Agency services connected with procuring any of the services covered by this provision.

VAT generally applies as follows if an EU taxable person supplies any of the intangible services listed above:

- If the customer is established in the same Member State as the supplier, the supplier charges VAT on the service at the rate applicable in the supplier's Member State;
- If the customer is a nontaxable person established in another Member State, the supplier charges VAT on the service at the rate applicable in the supplier's Member State;
- If the customer is a taxable person established in another Member State, the supplier does not charge VAT. The taxable customer accounts for VAT due using the reverse charge provision at the rate applicable in the customer's Member State; and
- If the customer is established outside the European Union, the supplier does not charge VAT. The customer may be obliged to account for VAT in the country where it is established, depending on that country's VAT law.

EU VAT generally applies as follows if a non-EU person supplies any of the intangible services listed above:

- If the customer is a nontaxable person, the supplier does not charge VAT, unless the "use and enjoyment" provision applies (see below). However, the supplier may be required to charge VAT in its country, depending on that country's VAT law;
- If the customer is a taxable person established in the European Union, the supplier does not charge VAT. The taxable customer

accounts for VAT due using the reverse charge provision at the rate applicable in the customer's Member State. The supplier may also be required to charge VAT in the non-EU country where it is established, depending on that country's VAT law; and

- If the customer is established outside the European Union, the supplier does not charge VAT, unless the "use and enjoyment" provision applies (see below). However, the supplier may be required to charge VAT in its country, depending on that country's VAT law.

Use and Enjoyment

These rules may lead to nontaxation or to double taxation if either party is not established in the European Union. To help avoid these effects, additional rules may apply that either allow a service to be taxed if it is "used and enjoyed" in the European Union or prevent a service from being taxed if it is "used and enjoyed" outside the European Union. Member States apply the use and enjoyment rules to the following services:

- The hiring out of a means of transport; and
- Telecommunications services supplied by a taxable person established outside the European Union to a nontaxable person established in the European Union.

Member States may apply the use and enjoyment provisions to other intangible services if they choose to do so.

If a service is taxed in the European Union under the use and enjoyment provisions, a non-EU supplier of the service may be required to register for VAT in every Member State where it has customers that are not taxable persons. For the detailed rules relating to VAT registration, see chapters on the individual countries of the European Union.

Electronic Services

With effect from 1 July 2003, new VAT rules apply to supplies of "electronic services." Electronic services include services such as supplies of downloaded software and music, pay-per-view television broadcasts, information services and distance learning services supplied by computer.

Under this provision, VAT applies as follows:

- EU taxable persons that supply electronic services do not charge VAT to taxable persons in other EU Member States or to customers outside the European Union;
- EU taxable persons that supply electronic services charge VAT to taxable persons established in the same Member State and to nontaxable persons established anywhere in the European Union, using the origin principle (that is, VAT will apply at the rate in force in the Member state where the supplier is established);
- EU taxable persons that receive a supply electronic services from another EU Member State or from outside the European Union must account for VAT under the reverse charge provision (that is, self-assess VAT); and
- Non-EU suppliers that provide electronic services to nontaxable persons are required to register for VAT in the European Union and charge VAT based on the destination principle (that is, at the rate in force in the customer's Member State).

A non-EU service provider may choose whether to register for VAT in each Member State where it has nontaxable customers or it may use a simplification measure. The simplification measure allows a non-EU service provider to register for VAT in a single Member State to fulfill its administrative obligations (although VAT remains chargeable to nontaxable customers at the rate in force in each customer's country). If the simplification measure is used, the non-EU service provider must recover any input tax incurred through the EU 13th VAT Directive scheme (see Section E *Recovery of VAT by Non-Established Businesses*).

D. EU VAT Rates

EU Member States are permitted to apply a standard rate of VAT and one or two reduced rates. No higher rates may apply. The standard rate must be at least 15%. However, a special standard rate of 13% applies in the territory of Madeira. Any reduced rate may not be less than 5% and may apply only to goods and services listed in Annex H to the EU 6th VAT Directive. An exception to the reduced rate rule is that Member States may continue to apply a reduced rate lower than 5% or to apply a reduced rate to goods not included in Annex H, provided that such rates were in force in that country on 1 January 1991. However special reduced rates may apply in certain territories. The 10 new Member States that joined the European Union on 1 May 2004 may continue to apply reduced rates to certain goods and services not listed in Annex H as a transitional measure.

The EU 6th VAT Directive sets out which supplies of goods and services may be exempted when supplied within the territory of the Member State. Exempt supplies do not carry a right to deduct related VAT on purchases (known as input tax).

E. Recovery of VAT by Non-Established Businesses

Every EU Member State must refund VAT incurred by businesses that are neither established nor registered for VAT in that Member State. A non-established business is allowed to claim VAT to the same extent as a VAT-registered business in the Member State.

For businesses established in the European Union, refund is made under the terms of the EU 8th VAT Directive. All Member States must refund VAT to eligible claimants established in other Member States.

For businesses established outside the European Union, refund is made under the terms of the EU 13th VAT Directive. All Member States must refund VAT to claimants established outside the European Union. However, Member States may apply a condition that the non-EU country where the claimant is established provides reciprocal refunds in respect of its own turnover taxes.

Who Is Eligible

To be eligible for a refund under the EU 8th VAT Directive the claimant must satisfy the following conditions:

- It must be a taxable person, registered for VAT in another EU Member State;

- It must not have an establishment, center of economic activity, registered office or place of residence in the Member State where the refund is requested; and
- It must make no supplies of goods or services in the Member State where a refund is requested, other than the following activities: services that are taxed where the recipient is located (see Section C *Intangible Services*) and certain transport services.

To be eligible for a refund under the EU 13th VAT Directive, the claimant must satisfy the following conditions:

- It must carry out activities that would make it eligible to be a taxable person in the European Union if the activities were conducted there;
- It must not have an establishment, center of economic activity, registered office or place of residence in the Member State where the refund is requested;
- It must make no supplies of goods or services in the Member State where a refund is requested, other than the following activities: services that are taxed where the recipient is located (see Section C *Intangible Services*) and certain transport services; and
- If a VAT refund is claimed in any Member State that requires reciprocal VAT refunds for its citizens, the country where the claimant is established must satisfy this condition.

Minimum Claims

Under the EU 8th VAT Directive the minimum claim period is three months, and the maximum period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25. Member States may impose higher limits. The minimum claim limits for non-EU businesses may not be lower than for EU businesses. The claim limits applied are outlined in the chapters dealing with the individual countries of the European Union.

Documentation

The claimant must submit the following applicable documentation to the relevant VAT office in the Member State where a refund is requested (the competent offices are listed in the chapters dealing with the individual countries of the European Union):

- The standard application form, which is available in all official EU languages and in all Member States (but the form must generally be completed in the language of the Member State where the refund is requested);
- For an EU business, an annual certificate of status stating that the claimant is a taxable person issued by the VAT authorities in the Member State where it is established;
- For a non-EU business, proof of entitlement, which may include a certificate issued by the tax authorities in the country where the claimant is established (required annually);
- Original invoices, import documents, bills, vouchers, receipts or customs clearance forms supporting the amounts of VAT claimed; and
- For a non-EU business, documents appointing a tax representative in countries where that is required.

Time Limits

Claims must generally be submitted within six months of the end of the calendar year, that is, by 30 June of the following year. This deadline is generally strictly enforced. However, there are exceptions, particularly for claims submitted under the EU 13th VAT Directive. The deadlines applied are outlined in the chapters dealing with the individual countries of the European Union.

Refunds are generally paid within six months of the Member State receiving the claim. Some Member States pay interest on VAT amounts refunded outside this time limit (for more details, see chapters dealing with the individual countries of the European Union).

Appeals

All Member States provide an appeal procedure if a refund is denied.

F. EU Declarations**INTRASTAT**

INTRASTAT is a system of reporting related to intra-Community transactions made by taxable persons, introduced on 1 January 1993 to allow the collection of statistical information on intra-Community trade in the absence of customs controls at the borders. EU businesses must submit information on a periodic basis to the VAT authorities if they make either intra-Community supplies or intra-Community acquisitions in excess of certain limits. Penalties may apply to missing and late INTRASTAT reports and to errors in reporting. Further information on the requirements for INTRASTAT reporting is given in the chapters dealing with the individual countries of the European Union.

EU Sales Lists (ESLs)

Taxable persons that make intra-Community supplies must submit EU Sales Lists (ESLs) to the VAT authorities quarterly. Penalties may apply to missing and late ELS reports and to errors in reporting. Further information on the requirements for ESL reporting is given in the chapters dealing with the individual countries of the European Union.

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| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Arvonlisävero |
| Date Introduced | 1 June 1994 |
| European Union (EU) Member State | Yes |
| Administered by | Finnish Ministry of Finance & National Board of Taxes (Verohallitus) http://www.vero.fi |
| VAT Rates | |
| Standard | 22% |
| Reduced | 17% and 8% |
| Other | Zero-rated, Exempt and Exempt with Credit |
| VAT Number Format | 1234567-8 (used for domestic trade, imports and exports) FI12345678 (used for intra- Community trade) |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | €8,500 (not applicable to non- established businesses and to municipalities) |
| Distance Selling Intra-Community Acquisitions | €35,000 None €10,000 (for fully exempt businesses) |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Finland by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in Finland (that is, services for which the recipient is liable for the VAT due);
- Reverse charge goods purchased by a taxable person in Finland; and

- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes, Finland does not include the insular province of Ahvenanmaa (Åland Islands). However, the province is part of the Finnish and European Community customs territory.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services, or intra-Community acquisitions or distance sales, in the course of a business.

The VAT registration threshold of €8,500 applies to businesses that are established in Finland or that have a fixed (permanent) establishment there. As of 1 January 2005, the law also includes a tax relief for small businesses with a turnover of between €8,500 and €22,500 during the financial year. The tax relief is gradual, so that the amount of the relief decreases as turnover increases.

Special rules apply to foreign or “non-established” businesses that have no fixed establishment in Finland.

Group Registration

Group registration may be granted to taxable persons that supply exempt financial or insurance services and to other taxable persons controlled by financial or insurance companies. Group members must have close “financial, economic and administrative relationships.” All members of the VAT group must be established in Finland. However, Finnish fixed establishments of foreign entities may belong to a group.

Group members are treated for VAT purposes as a single taxable person. No VAT is charged on transactions between group members. Members are jointly responsible for all VAT liabilities of the group.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Finland. A non-established business that makes taxable supplies in Finland is not obliged to register for VAT if the reverse charge rule applies to all its transactions. Under the reverse charge rule, the Finnish customer is responsible for accounting for the VAT. However, the non-established taxable person may opt to register for Finnish VAT instead.

The reverse charge rule applies to most supplies of goods and services. The reverse charge rule does not apply to the following transactions:

- Supplies of goods and services to a private person;
- Supplies of goods and services to a non-established business that does not have a fixed establishment in Finland and has not opted to be registered for VAT in Finland;
- Distance sales in excess of the annual threshold; and
- Supplies of passenger transport, educational or scientific services, cultural, entertainment, or sporting events and other similar services, as well as services directly related to arranging such events.

If the reverse charge does not apply, the non-established business must register for VAT in Finland. No VAT registration threshold applies to supplies made by a non-established business that does not have a fixed establishment in Finland.

A non-established business that is involved in intra-Community trade in Finland must notify the Finnish VAT authorities of its activities (see the chapter on the European Union). Therefore, even if the business does not have to register for VAT (for example, because the reverse charge applies to its sales), it must still notify the Finnish VAT authorities of the fact that it has commenced activities. It must also report details of its intra-Community trade to the VAT authorities on a monthly basis. The procedure for registering for the “notification duty” is the same as for general VAT registration.

As an alternative, the non-established business may opt to register for VAT. If a non-established business chooses to register for VAT, it may recover Finnish input VAT through its monthly VAT returns.

Tax Representatives

A non-established business that is obliged to register for VAT in Finland is not required to appoint a tax representative, but it may choose to do so. In practice, many non-established businesses appoint tax representatives to deal with correspondence from the Finnish VAT authorities, as it is normally written in Finnish or Swedish.

However, if a non-established business opts to register for VAT in Finland when it is not obliged to do so (for example, because the reverse charge could otherwise be applied to its transactions), it must appoint a tax representative resident in Finland. The Finnish VAT authorities must approve the tax representative. However, the representative is not liable for any VAT due.

Late Registration Penalties

No specific penalty is levied for late VAT registration in Finland. However, if the late registration results in the late submission of VAT returns or the late payment of VAT, penalties are assessed for these errors.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give a right of input tax deduction for related expenditure (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit”, which means that no VAT is chargeable, but the supplier may recover related input tax. Examples of exempt with credit supplies include intangible services supplied to another taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

In Finland, four rates of VAT currently apply – the standard rate at 22%, the reduced rates at 8% and 17% and the zero rate (0%).

The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Land and buildings
 Financial transactions
 Insurance
 Education (as defined by law)
 Health and welfare
 Transfer of copyright ownership

Examples of Goods and Services Taxable at 0%

Newspapers and periodicals sold by subscription (minimum of one month)
 Exports of goods

Examples of Goods and Services Taxable at 8%

Cinema
 Sporting services
 Books
 Medicine
 Passenger transport
 Accommodation

Examples of Goods and Services Taxable at 17%

Most foodstuffs
 Animal feed
 Drinking water

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply is the month in which the goods are delivered or the services are performed.

During the accounting year a taxable person may account for VAT on the basis of invoices issued and received. At the end of the accounting year the VAT reporting must be adjusted to follow the basic time of supply (that is, on the basis of goods delivered and services performed).

Deposits and Prepayments

The time of supply for an advance payment or prepayment is when the payment is received by the supplier (even if the supplier has not yet issued an invoice or made the supply).

Intra-Community Acquisitions

The basic time of supply for an intra-Community acquisition of goods is the month following the month when the goods were received (that is, when the acquisition occurred). However, if the supplier issues an invoice in the month in which the goods were received, the time of supply is the month when the acquisition took place.

Imported Goods

The time of the supply for imported goods is the date of the customs written clearance confirming that the imported goods are in “free circulation” in the European Union following their direct

importation or their release from a customs regime. This is not necessarily the date on which the goods were imported.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Finland, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge goods and services (see the chapter on the European Union).

A valid tax invoice that fulfills the requirements of the Finnish VAT invoicing rules (see Section H. *Invoicing*) or customs document must generally accompany a claim for input tax.

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

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax is Non-Deductible

Business entertainment
Purchase, lease, hire and maintenance of passenger cars and cars for mixed purposes that is, cars designed and equipped for carrying passengers and goods (unless used exclusively for business use)
Private use of trucks and vans
Fuel for private cars
Private expenditure

Examples of Items for which Input Tax is Deductible (if related to a taxable business use)

Hotel accommodation
Books
Advertising
Staff entertainment (subject to limitations)
Home and mobile telephone bills – less a private use deduction
Attendance at conferences, seminars and training courses
Fuel and maintenance of trucks and vans, to the extent used for business purposes
Public transport and taxis

Partial Exemption

Input tax directly related to the making of exempt supplies is not generally recoverable. If a Finnish taxable person makes both exempt supplies and taxable supplies it may not recover input tax in full. This situation is referred to as partial exemption.

In Finland, the amount of input tax that a partially exempt business may recover is calculated in two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxable supplies. Exempt with credit supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is recoverable in full.
- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies, in order to allocate a portion to taxable supplies (which may then be recovered). This treatment applies, for example, to the input tax related to general business overheads. The pro rata calculation is normally based on the value of taxable supplies made compared to the total value of supplies made, but other methods of apportionment may be used.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. In Finland, a special treatment for capital goods is restricted to purchases of land and buildings and to construction and renovation services.

If a taxable person sells land or a building, or otherwise puts land or a building to a nontaxable use, it must repay in full the input VAT originally reclaimed on renovation or construction services. No account is taken of the number of years that the capital goods have been used by the business. The adjustment does not apply to running costs or maintenance costs. The capital goods adjustment may also apply to tenants of a building who have undertaken construction or renovation work at their own expense and who have recovered input tax. A recent Supreme Administration court decision ruled that the capital goods adjustment may not be applied to tenants that use the premises themselves.

The repayment obligation expires in full once five years have elapsed from the end of the calendar year when the construction or renovation work was completed.

If the new purchaser of the land or buildings is a business, it may treat the VAT repaid by the vendor to the VAT authorities as its input tax, and recover it accordingly.

The obligation to repay in full the input VAT that was reclaimed applies to the purchaser until the end of the capital goods adjustment period (that is, until five years have elapsed from the end of the calendar year in which the construction or renovation work was originally completed). The same adjustment obligation also applies to any construction or renovation work that was completed after the purchase.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The input tax credit may be carried forward to the following month to offset output tax in that period. A refund may be requested if the taxable person is in an excess input VAT position at the end of the financial year. In some cases, a refund may be requested during the financial year.

If a taxable person is in a constant VAT refund position (that is, its input VAT generally exceeds its output VAT), a separate refund application may be filed instead of the VAT return at the end of each monthly VAT period.

G. Recovery of VAT by Non-Established Businesses

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

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. Finland does not exclude claimants from any non-EU country from the refund process.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following that in which the supply was made. The date of supply may be earlier than the date of the invoice. The deadline for claims is strictly enforced.

Claims may be submitted in Finnish or Swedish. In practice, applications completed in English may also be accepted. The refund application must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three consecutive months during the same calendar year. The maximum claim period is one year. The minimum claim amount for a period of less than a year is €200. For an annual claim the minimum amount is €25.

Applications for refunds of Finnish VAT may be sent to the following address:

Uudenmaan Verovirasto
Yritysvertoimisto
PL34
00052 Verotus
Finland

H. Invoicing

VAT Invoices and Credit Notes

A Finnish taxable person must generally provide a VAT invoice for all supplies made to other taxable persons and to all legal entities, including exports and intra-Community supplies. Invoices are also required for supplies to private persons for intra-Community supplies of new means of transport and distance sales.

Both sales and purchase invoices must be in accordance with the Finnish VAT invoicing rules. A purchaser of goods and services may recover the input VAT on the purchase only if it retains an invoice that fulfils the requirements. If purchase invoices do not

fulfill all the requirements, the purchaser may lose the right to recover the input VAT, unless the inadequate invoice is replaced with a new (corrected) invoice.

The following information must be included in the invoice:

- Invoice date;
- A sequential number, based on one or more series, which uniquely identifies the invoice;
- The VAT identification number of the supplier (for domestic supplies, that is the business ID; for intra-Community supplies, that is the EU VAT number);
- The VAT identification number of the customer if the customer or buyer is liable to pay tax on goods supplied or services rendered or if the goods have been supplied as an intra-Community supply;
- The full name and address of the supplier and the customer or buyer;
- The quantity and nature of the goods supplied or the extent and nature of the services rendered;
- The date when the supply of goods and services was made or completed, and for an advance payment, the date when the payment on account was made, insofar as that date may be determined and differs from the date of issue of the invoice;
- The taxable amount (exclusive of VAT) for each VAT rate or exemption, the unit price exclusive of VAT and the amount of any discount or rebates if they are not included in the unit price;
- The VAT rate applied (at each VAT rate);
- The VAT amount payable in Euros (except where the margin scheme applicable to second-hand goods, works of art, collectors' items and antiques is applied);
- Where an exemption is involved or where the customer or buyer is liable to pay VAT, the basis for the exemption or the liability of the customer or a reference to the appropriate provisions of the Finnish VAT Act of the EU Sixth VAT Directive; and
- If a corrected invoice (for example, a credit note) is issued, an unambiguous reference to the invoice issued earlier.

In some specific cases, the invoicing requirements are less detailed. Less detailed invoices may be issued in the following cases: invoices for amounts up to €1,000 (inclusive of VAT); invoices relating to supplies made by certain businesses, whose clients are mainly private persons (such as retailers, kiosks, hairdressers); invoices regarding passenger transport or restaurant services and receipts concerning parking meters and vending machines. For these invoices, only the following information must be included:

- The invoice date;
- The supplier's name;
- The supplier's VAT identification number;
- The quantity and nature of the goods supplied or the nature of the services rendered; and
- The amount of VAT payable (at each VAT rate) or the taxable amount exclusive of VAT (at each VAT rate).

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the *European Union*).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply.

Proof of exports and Intra-Community supplies

Finnish VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Finland. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs on the reverse side. The VAT authorities may also approve the use of other documentation such as consignment notes (or other commercial evidence) or the import declaration of the customs destination; and
- For an intra-Community supply the supplier must include the purchaser's valid EU VAT identification number (issued by an EU Member State other than Finland) on the sales invoice and must retain commercial documentation (for example, transport documentation, consignment notes, proof of payment and proof of receipt of the goods).

Foreign Currency Invoices

A valid Finnish VAT invoice may be issued in a foreign currency but to the VAT amount must be converted to Euros (€).

I. VAT Returns and Payment

VAT Returns

Finnish VAT returns are submitted monthly. Returns must be submitted together with payment in full by the 15th day of the second month following the return period. Returns may be filed electronically. Return liabilities must be paid in Euros.

Penalties

Penalties are assessed for the late payment of VAT, in the following amounts:

- Interest at the rate of 9.5% per annum for the year 2005 (the rate was 9.5% in 2004 and 10.5% in 2003); and
- A discretionary penalty ranging from 1% to 30% of the VAT due (up to 200% if tax fraud is involved).

J. EU Declarations

INTRASTAT

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

The thresholds for INTRASTAT Arrivals and for the calendar year 2005 is €100,000

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €100,000.

Finnish taxable persons must complete INTRASTAT declarations in Euros.

The INTRASTAT return period is monthly. The submission deadline is the 10th business day following the return period.

A penalty is assessed for late filing or for a failure to submit a return or for the submission of an incorrect INTRASTAT return in an amount ranging between €10 and €2,500.

EU Sales Lists

If a Finnish taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL) to the Finnish tax authorities. An ESL is not required for any period in which no intra-Community supplies have been made.

ESLs must be submitted on a calendar quarterly basis by the 15th day of the second month following the end of the return period.

The penalty for a late or inaccurate ESL is between €80 and €1,700.

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|-----------------------|---|

A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Taxe sur la valeur ajoutée (TVA) |
| Date Introduced | 10 April 1954 |
| European Union (EU) Member State | Yes |
| Administered by | French Ministry of Finance http://www.impots.gouv.fr |
| VAT Rates | |
| Standard | 19.6% |
| Reduced | 5.5% and 2.1% |
| Other | Exempt and Exempt with credit |
| VAT Number Format | FR 8 3 2 3 7 5 8 3 1 8 4 |
| VAT Return Periods | Monthly Quarterly (available if annual turnover below €4,000) |
| Thresholds | |
| Registration | None |
| Distance Selling | €100,000 |
| Intra-Community Acquisitions | None |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in France by a taxable person;
- The Intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in France (that is, services for which the recipient must account for the VAT due); and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes the territory of France includes Monaco and Corsica. The Overseas Dependencies of Guadeloupe, Martinique and Réunion are considered as non-EU countries with regards to France and the other EU Member States (see chapter on the European Union).

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales, in France in the course of a business.

Thresholds applicable to small French established businesses are:

- Sales of goods – €76 300; and
- Supplies of services – €27 000.

A taxable person that commences business activity in France must notify the French VAT authorities of its liability to register for VAT within 15 days.

Special rules apply to foreign or “non-established” businesses.

Group Registration

VAT grouping is not permitted under the French VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of France. If a non-established taxable person exclusively makes supplies that are subject to the reverse charge mechanism, it does not need to register for VAT in France.

A non-established business must register for French VAT if it makes any of the following supplies:

- Goods located in France at the time of supply;
- Intra-Community acquisitions (see chapter on the European Union);
- Distance sales in excess of the annual threshold; and
- Services that are not subject to the reverse charge (for example, services related to immovable goods).

Tax Representatives

With effect from 1 January 2002, business established in the European Union may register for French VAT without appointing a tax representative in France. However, a business established in the European Union may appoint a tax agent in France to act on its behalf, if it chooses to do so.

Businesses that are established outside the European Union must appoint a tax representative in order to register for VAT. The tax representative is jointly and severally liable with the non-established business it represents for all French VAT liabilities.

Late Registration Penalties

No specific penalty is applied for late VAT registration. However, interest and penalties may apply if a late registration results in the late payment of French VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including a reduced or super-reduced rate. The term “exempt supplies” is used to refer to supplies of goods and services that are within the scope of VAT but that are not liable to tax. Exempt supplies do not give a right to deduct input tax on related expenditure (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit”, which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services, intra-Community supplies of goods as well as the supply of intangible services to another taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

Mainland France

In mainland France, three rates of VAT currently apply – the standard rate at 19.6% and the reduced rates at 2.1% and 5.5%. The

standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 2.1% | Examples of Goods and Services Taxable at 5.5% |
|--|---|---|
| Land and buildings | Pharmaceuticals | Foodstuffs |
| Financial transactions | Newspapers and periodicals | Books |
| Insurance | | Passenger transport |
| Education | | |
| Health and welfare | | |
| Betting and gaming | | |

Corsica

On the island of Corsica, the standard rate is 19.6%, but other rates (0.9%, 8% and 13%) apply to specific goods or services. The 0.9% rate applies to the first performance of certain theatrical performances and circuses. The 8% rate applies to work on immovable property, to agricultural equipment and to sales of restaurant food for consumption on the premises. The 13% rate applies to petroleum products.

A reduced rate of 2.1% applies to the supplies of goods and services that are subject to the reduced rate of 5.5% in mainland France.

Overseas Dependencies (Guadeloupe, Martinique, Réunion)

In the Overseas Dependencies the standard rate is 8.5%. A reduced rate of 2.1% applies to the supplies of goods and services that are subject to the 5.5% rate in mainland France.

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” Different time of supply rules apply to supplies of goods and supplies of services.

Goods

The general rule is that the time of supply for goods is when the right to dispose of the goods as owner is transferred. If the sale contract stipulates that the supplier retains ownership of the goods, the tax is due when the goods are handed over to the buyer.

Services

The time of supply for services is when the consideration is received. However, the supplier may opt to account for VAT on an accruals basis, that is, when the services are rendered and the invoice is issued. If the consideration for a supply of services is paid in installments, VAT is due on the receipt of each installment.

Reverse Charge

The time of supply for a reverse charge service received by French taxable persons is the date of payment for the service, unless the recipient of the service has opted to pay VAT on an accruals basis.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice prior to this date, the time of supply is the date of the invoice.

Imported Goods

The time of supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied within France, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax.

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

The following table sets out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Hotel accommodation for employees
 Fuel
 Transport
 Purchase, lease and maintenance of passenger cars
 Business gifts valued at more than €31
 Taxis

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Restaurant meals and entertainment for employees and clients
 Hotel accommodation for clients
 Attending conferences, exhibitions and training seminars
 Books
 Motorway tolls
 Liquefied Petroleum Gas (LPG)
 Purchase, lease and maintenance of vans and trucks
 Diesel fuel for vans and trucks
 Advertising
 Business use of a home telephone

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a French taxable person makes both exempt supplies and taxable supplies it may not recover input tax in full. This situation is referred to as partial exemption.

In France, the amount of input tax that may be recovered is calculated in two stages:

- The first stage identifies the input VAT that may be directly allocated to exempt and to taxable supplies. Exempt with credit supplies are treated as taxable supplies for these purposes. Input tax directly allocated to exempt supplies is not deductible. Input tax directly allocated to taxable supplies is deductible in full.
- The second stage prorates the remaining input tax that relates to both taxable and exempt supplies to allocate a portion to taxable supplies (which may be recovered). This treatment applies, for example, to the input tax on general business overheads. In France, the pro rata calculation is based on the percentage of taxable supplies to total supplies made. The resulting ratio is rounded up to the nearest whole number. For example, a recovery ratio of 77.1% would be rounded up to 78%.

In addition to this basic method, a taxable person may be authorized by the VAT authorities to apply the recovery ratio to all its purchases of goods and services, other than capital goods (see below).

A taxable person that performs different types of business activity within the same business entity must keep separate accounts for each branch of activity and calculate the partial exemption ratio separately for each.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes by more than 10 percentage points during the adjustment period.

In France, the capital goods adjustment applies to the following assets for the number of years indicated:

- Land and buildings acquired before January 1996 (adjusted over a period of 10 years);
- Land and buildings acquired after January 1996 (adjusted over a period of 20 years); and
- Other fixed assets (adjusted over a period of five years).

The adjustment is applied each year following the acquisition, to a fraction of the total input tax ($\frac{1}{10}$ or $\frac{1}{20}$ for land and buildings and $\frac{1}{5}$ for other fixed assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The input tax credit may be carried forward to offset output tax in subsequent return periods, until it has been used up.

A refund of the input tax credit may be requested at the end of the calendar year, if the total amount refundable is at least €150. A refund may also be requested at the end of a calendar quarter (for the first three quarters of the calendar year) if the amount refundable is at least €760.

Taxable persons that predominantly make supplies that are exempt with credit may claim monthly repayments, under certain conditions. Supplies that are exempt with credit include exports, intra-Community supplies of goods, supplies of international transport and supplies of intangible services to businesses established in the European Union or to persons established outside the European Union.

G. Recovery of VAT by Non-Established Businesses

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

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. France does not exclude any non-EU countries from the refund process.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following the calendar year in which the tax was incurred. This deadline is strictly enforced.

Claims must be submitted in French. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months. The maximum claim period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25.

Applications for refunds of French VAT may be sent to the following address:

Service du remboursement de TVA aux assujettis établis à
l'étranger
Direction des Services Généraux et de l'Informatique
10, rue d'Uzès
75080 Paris Cedex 02
France

Repayment Interest

If the refund is not made within six months, the French VAT authorities may pay interest to the claimant, provided that the refund claim complies with all the necessary requirements and the refund is granted by a French court.

H. Invoicing

VAT Invoices and Credit Notes

A French taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. An invoice must be issued as soon as the supply has taken place.

A commercial invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The amount of VAT credited must be separately itemized and it must be cross-referenced to the original VAT invoice.

Proof of Exports and Intra-Community Supplies

French VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence indicating that the goods have left France. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs and showing the supplier as the exporter. With effect from 2004, regulations provide that other acceptable proof of export may be provided. The sales invoice must include the following statement in French: *Exonération art 262 du Code Général l des Impôts*.
- For an intra-Community supply, the supplier must include the purchaser's EU VAT identification number on the sales invoice, together with the following statement in French: *Exonération art.262ter-I du Code Général des Impôts*. The supplier must also retain commercial documentation (for example, purchase orders, transport documentation, proof of payment, a copy of the customer's invoice stamped for receipt of the goods).

Foreign Currency Invoices

If a French VAT invoice is issued in a foreign currency, the VAT amount to be paid must be converted to Euros (€) using the rate published by the French Central Bank for the date of the supply. For intra-Community transactions, it is possible to use the customs rate (published monthly). If a taxable person chooses to use the customs rate, that rate must be used for all intra-Community trade, for at least one calendar year for both VAT returns and Intrastat returns.

I. VAT Returns and Payment

VAT Returns

French VAT returns are usually submitted for monthly periods. Taxable persons with a turnover of less than €4,000 may opt to submit returns quarterly.

Taxable persons with a turnover in excess of €15 million must submit returns and pay return liabilities electronically. Taxable persons with a lower turnover may choose to file and pay electronically. In all cases, a taxable person must submit an application to the French VAT authorities before submitting electronic returns. Return liabilities must be paid in Euros.

Monthly VAT returns and payment are due between the 19th and the 24th day of the month following the end of the return period. The due date depends on a number of factors including the type of legal entity involved and where the taxable person is established.

Penalties

The following penalties are assessed for errors associated with electronic filing:

- Failure to declare VAT by electronic means (even if the return is submitted by the due date, but is filed on paper), 0.2% of the VAT due; and
- Failure to pay VAT by electronic means (including payment made by the due date, but not made electronically), 0.2% of the VAT due.

The following penalties are assessed for the late submission of VAT and late payment of VAT:

- 5% of the tax due (late payment);
- 10% of the tax due if the French VAT authorities have not yet issued a formal notice (late submission);
- 40% of the tax due in the case of a first formal notice; and
- 80% of the tax due in the case of a second notice.

In addition to the penalty, interest accrues at a rate of 0.75% per month.

Penalties and interest payments may also apply to inaccurate returns.

J. EU Declarations

INTRASTAT

A French taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of its sales or purchases 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 calendar year 2005 is €100,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is nil.

French taxable persons must complete INTRASTAT declarations in Euros.

The INTRASTAT return period is monthly. The submission deadline is the 10th day of the month following the end of the return period.

The penalty for late filing is €750, increased to €1,500 if the report is not filed within 30 days after the French customs authorities have issued a warning notice. In addition, every omission or inaccuracy on an INTRASTAT return is punishable by a fine of between €15 and €1,500 per document. A penalty of €1,500 may also apply if a taxable person refuses to provide information or documents to the French customs authorities.

EU Sales Lists

In France, all information related to intra-Community transactions is reported using the INTRASTAT form. No separate EU Sales List is used.

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| | |
|---------------------|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Umsatzsteuer |
| Date Introduced | 1 January 1968 |
| European Union (EU) | |
| Member State | Yes |
| Administered by | German Ministry of Finance http://www.bundesfinanzministerium.de |
| VAT Rates | |
| Standard | 16% |
| Reduced | 7% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | DE123456789 (DE+9 digits) |
| VAT Return Periods | Monthly or Quarterly, |
| Thresholds | |
| Registration | None |

| | |
|---|---------------------|
| Distance Selling Intra-Community Acquisitions | €100,000 €12,500 |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Germany by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge supplies, including supplies of services and supplies of goods with installation services;
- The self-supply of goods and services by a taxable person; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes, the territory of Germany does not include the Island of Heligoland, the territory of Buesingen and of a free zone of control type I (according to Art. 1 (1) (1) Customs Administrative Act (free ports)).

C. Who Is Liable

A “taxable person” is any person, business entity or individual that independently carries out any economic activity, in any place.

No VAT registration threshold applies in Germany. A taxable person that commences activity in Germany must notify the German VAT authorities of its liability to register.

The reverse charge procedure applies to services and supply of goods with installation supplied by “non-established” businesses and certain supplies in connection with immovable property, in connection with real estate transfer tax law and goods supplied as part of the execution of security outside of an insolvency procedure.

VAT Number

Two distinct types of number are used in Germany – the (general) tax number (“Steuernummer”) and the VAT Identification Number (“USt-IdNr.”). The tax number is the number under which the taxable person is registered at the local tax office that is responsible for its tax affairs. The tax authorities use the tax number for internal management and co-ordination purposes. The tax number must be used for all preliminary VAT returns, annual VAT returns and all correspondence with the local tax authority.

Upon receipt of the tax number, a taxable person may apply for a VAT Identification Number at the Federal Office of Finance in Saarlouis. This number is used for intra-Community transactions.

Group Registration

Germany allows group registration for subsidiaries that are “financially, economically and organizationally integrated” into the business of a parent entity. The following general conditions apply:

- The parent (or controlling) member of the VAT group may be any type of legal entity, including a corporation, a general partnership or a sole entrepreneur;
- A subsidiary (or controlled) member of a VAT group must be a corporation; and
- The effects of the VAT group are limited to Germany.

The VAT authorities apply the following tests to determine whether entities meet the criteria for integration:

- “Financial integration” means that the parent has the majority of voting rights in the subsidiaries;
- “Economic integration” means that the subsidiaries act like departments of one entity or like divisions with regard to the overall business of the group; and
- “Organizational integration” requires that the parent have the means to exercise management power in the subsidiaries. For example, this requirement is met if the parent and the subsidiary have the same person acting as the Managing Director.

If the integration conditions are met, the subsidiaries and the parent are automatically treated as a group for VAT purposes. The effect of grouping is that the subsidiary is no longer considered to be an entrepreneur or separate taxable person. As a result, intra-group transactions are outside the scope of VAT so that no VAT is charged. The subsidiary is no longer required to file separate VAT returns and its transactions are reported through the parent’s VAT return. These effects apply only to domestic supplies between the group entities (that is, supplies within the scope of German VAT).

VAT grouping does not apply to certain intra-Community compliance obligations (see Section J *EU Declarations*). Each subsidiary must have its own, separate VAT Identification Number and must file its own European Sales List, if it makes intra-Community supplies. INTRASTAT returns may either be filed on an aggregate group basis by the parent or by each subsidiary separately.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Germany. A non-established business has no obligation to register for German VAT if all its supplies are covered by the “reverse charge” (whereby the recipient of the supply must self-assess VAT). The reverse charge applies to most transactions. It does not apply to supplies of goods located in Germany (except supplies of installed goods) or to supplies of goods or services made to private persons. In principle, if the reverse charge does not apply, a non-established business must register for German VAT.

Tax Representatives

A non-established business that is obliged to register for VAT in Germany may not appoint a tax representative, in principle. A tax representative may be appointed only if the non-established business has no German VAT to reclaim and exclusively makes supplies that are either exempt from German VAT or that are exempt with credit.

Late Registration Penalties

No specific penalty applies to late VAT registration in Germany. If as a result of the late registration, a taxable person submits any VAT returns, late filing penalties may apply. Penalties are also charged for any late payments of VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services, and intra-Community supplies of goods (see the chapter on the European Union).

In Germany, two rates of VAT currently apply – the standard rate at 16% and the reduced rate at 7%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services (as specified by law, exceptions apply in each case)

Land and buildings
Financial transactions
Insurance
Education
Medical services

Examples of Goods and Services Taxable at 7% (as specified by law, exceptions apply in each case)

Books and newspapers
Cultural services
Food
Passenger transport
Agricultural products

E. Time of Supply

In principle, German VAT is due on the 10th day following the end of the filing period (“Voranmeldezeitraum”) in which the VAT falls due. A filing period may be a month or a quarter of the calendar year.

The VAT falls due at the end of the filing period in which a supply takes place (the “tax point”). However, some taxable persons are permitted to account for VAT on a cash basis (“cash accounting”). If cash accounting is used, the tax point is the end of the filing period when payment is received.

Prepayments

The tax point for an advance payment or prepayment is the end of the VAT return period in which payment is received.

Reverse Charge

The tax point for a supply taxed under the “reverse charge” (self-assessment by a German taxable person) is the end of the month following the month when the supply takes place. If the supplier

issues an invoice before this date, the tax point is when the invoice is issued.

Intra-Community Acquisitions

The tax point for an intra-Community acquisition of goods is the end of the month following the month when the acquisition occurred. If the supplier issues an invoice prior to this date, the tax point is when the invoice is issued.

Imported Goods

The tax point for imported goods is the date when the goods clear customs, or when the goods leave a duty suspension regime and are released for free circulation. The date when import VAT becomes due depends on how the goods clear customs:

- If the goods are cleared without using a payment simplification regime, in general, import VAT payment is due within 10 days; or
- If the goods are cleared using a payment simplification regime, there is a postponement of payment of up to 45 days.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Germany, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods (see the chapter on the European Union) and purchases of goods and services taxed under the reverse charge.

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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). Some specific rules apply in Germany to input tax deduction:

- **The 10% Rule** – if an asset is used for less than 10% business purposes, no input VAT recovery is allowed. This rule applies to all assets.
- **Private Use** – For corporations (for example, a GmbH or an AG) that are taxable persons, any purchase of goods or services is treated as being made for business purposes. Therefore, input VAT recovery is allowed in full. If the goods or services are used for private purposes, the legal entity is deemed to make a supply of goods or services and output VAT is due.
- **Luxury Goods and Services** – Input tax may not be deducted for some items of business expenditure. As a general rule, if an item of expense is allowable for German income tax purposes, the input tax may be deducted.

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business gifts (if valued over €35)
 Employees' home telephone bills and private mobile phone bills

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Hotel accommodation
 Restaurant meals for employees on business trips
 100% purchase, lease and hire of cars by corporations, partnerships or sole proprietors (with VAT chargeable on employee private use)
 Advertising
 Books
 Transport services

Partial Exemption

Input tax directly related to making exempt supplies is generally not recoverable. If a German taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as "taxable supplies" for these purposes.

The amount of VAT recoverable is calculated using a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, business overheads) that may be allocated to taxable supplies and recovered.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's (partial exemption) recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period.

In Germany, the capital goods adjustment applies to the following assets for the number of years indicated:

- Land and buildings (adjusted for a period of 10 years); and
- Other assets (adjusted for a period of 5 years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for land and buildings and $\frac{1}{5}$ for movable capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

This provision also applies to current assets and services.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. The credit is generally refunded. Exceptionally, the tax authorities may make the refund conditional upon the taxable person making a deposit (for example, a bank guarantee) which is subsequently refunded.

G. Recovery of VAT by Non-Established Businesses

Germany refunds VAT incurred by businesses that are neither established in Germany nor registered for VAT there. For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. In accordance with the terms of the 13th Directive, refunds to non-EU businesses are made on the condition of "reciprocity." The German VAT authorities have published a list of countries to which refunds are granted and a list of those to which they are not.

A non-established business is generally allowed to claim German VAT to the same extent as a VAT registered business. However, businesses established outside the European Union may not recover German VAT on fuel costs.

For the general VAT refund rules of the EU 8th and 13th Directive refund schemes, see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following that in which the invoice was received by the claimant. The date of supply may be earlier than the date of the invoice. The claims deadline is strictly enforced.

Claims should be submitted in German. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union). The claimant must submit a Certificate of Taxable Status, which confirms that the claimant is registered as taxable person under a tax number. The Certificate may not be older than one year. In addition, the German VAT authorities may send an additional questionnaire, to ensure that the claimant should not be registered for VAT in Germany, rather than using the EU 8th or 13th Directive procedures.

For all claimants, the minimum claim period is three months; the maximum period is one year. For businesses established in the European Union, the minimum claim for a period of less than a year is €200; for an annual claim the minimum amount is €25. For businesses established outside the European Union, the minimum claim for a period of less than a year is €500; for an annual claim the minimum amount is €250.

Applications for refunds of German VAT should be sent to the following address:

Bundesamt fuer Finanzen
D-53221 Bonn
Germany

H. Invoicing

VAT Invoices and Credit Notes

A German taxable person must generally provide a VAT invoice for all supplies made to other taxable persons and to all legal entities, including exports and intra-Community supplies. Invoices are not automatically required for supplies made to private persons. There is only an obligation to issue an invoice to private persons for certain supplies in connection with real estate.

The invoice has to be issued within six months.

Taxable persons have to keep the invoices for 10 years. Private persons, who receive invoices for certain supplies in connection with real estate, must keep the invoices for two years.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It is also possible to cancel an incorrect invoice and issue a revised one.

Proof of Exports and Intra-Community Supplies

German VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, the VAT-free exports and intra-Community supplies must be supported by evidence that the goods have left Germany. Acceptable proof includes the following documentation:

- For an export, purchase orders, copy invoices, delivery notes, bills of lading and airway bills. The supplier should ask the transport company to issue confirmation that the products are shipped to another country;
- For an intra-Community supply, the supplier must include the purchaser's EU VAT number on the sales invoice and must retain commercial documentation (for example, transport documentation, consignment notes and proof of receipt of the goods); and
- The supplier must also keep detailed bookkeeping records concerning goods that have been exported or dispatched to another EU country. These records must be kept for a period of 10 years.

Foreign Currency Invoices

If a German VAT invoice is issued in a foreign currency, the value must be converted to Euros (€) using an official exchange rate. The following conversion rates may be applied:

- The actual bank-selling rate for the date of the supply (not the date of the invoice). The rate used must be evidenced by documentation issued by the bank (this must be allowed by the German tax authorities); or
- The average monthly exchange rates published by the Federal Ministry of Finance shortly after the end of the month.

I. VAT Returns and Payment

VAT Returns

As a general rule, preliminary VAT returns are filed quarterly, but monthly returns must be filed if the previous year's VAT payable amount exceeded €6,136. However, if the previous year's VAT amount did not exceed €512, the taxable person may be exempted from filing preliminary returns. Newly established taxable persons must file monthly for the first and second year of registration.

In general, preliminary VAT returns must be filed electronically.

The preliminary VAT return must be submitted by the 10th day after the end of the filing period. The VAT authorities must receive payment in full by the same day.

As the regular filing deadline is relatively short, the VAT authorities allow a one month filing and payment extension upon written application. However, taxable persons that submit monthly preliminary returns must pay a special prepayment equal to $\frac{1}{11}$ of the previous year's VAT liability at the due date. This special prepayment is deducted from the VAT payable according to the final preliminary return submitted for the calendar year. Taxable persons that file returns on a quarterly basis are not required to make a special prepayment.

Annual Return

In all cases (monthly, quarterly or no preliminary returns), an annual VAT return must be submitted by 31 May of the year following the end of the VAT year. If a (German) tax advisor is engaged to prepare the VAT returns, the filing deadline is 30 September.

Penalties

If VAT return liabilities are paid late, penalty interest is charged at the rate of 1% per month of the tax liability.

If a VAT return is filed late, a fine of up to 10% of the assessed tax amount may be imposed, up to a maximum of €25,000. In addition, an enforcement fine may be charged of up to €25,000.

Further sanctions apply to tax fraud.

J. EU Declarations

INTRASTAT

A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of its sales or purchases exceeds certain thresholds. Separate reports are used for intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches). Apart from deemed intra-Community supplies, any movement of goods to or from other Member States is also subject to INTRASTAT reporting (for example, goods sent for repair).

The threshold for INTRASTAT Arrivals for the calendar year 2005 is €300,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €300,000.

The INTRASTAT returns are generally filed monthly (although, they may be submitted more frequently). The submission deadline is the 10th working day of the month following the month when the intra-Community movement of goods takes place.

Penalties may be applied for late filing or failure to submit an INTRASTAT return.

EU Sales Lists

If a German taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL) in addition to its VAT return. No ESL is required for periods in which no intra-Community supplies have been made.

ESLs are normally submitted quarterly. The submission deadline is the 10th day of the month following the calendar quarter (reporting period).

A taxable person that is exempt from filing preliminary VAT returns, and whose taxable turnover does not exceed €200,000 a year, may request permission to file annual ESLs if its intra-Community supplies do not exceed €15,000 (and do not include supplies of new means of transport to purchasers using VAT identification numbers). In this case the submission deadline is the 10th day of the month following the calendar year.

Penalties may be imposed for late or inaccurate ESLs.

GREECE

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A. At a Glance

| | |
|-------------------------------------|--|
| Name of the tax | Value Added Tax (VAT) |
| Local Name | Foros Prostithemenis Aksias (FPA) |
| Date Introduced | 1 January 1987 |
| European Union (EU) Member State | Yes |
| Administered by | The Ministry of Finance http://www.gsis.gov.gr |

| | |
|---|---|
| VAT Rates | |
| Standard | 18% |
| Reduced | 8% and 4% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | EL 1 2 3 4 5 6 7 8 9 |
| VAT Return Periods | Monthly (Category C – turnover exceeds €1 million) Quarterly (Category A – turnover below €100,000 and Category – turnover between €100,001 and €1 million) Annual (all businesses) |
| Thresholds | |
| Registration | None |
| Distance Selling | €35,000 |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Greece by a taxable person;
- Reverse charge services received by a taxable person in Greece;
- The intra-Community acquisition of goods from another EU Member State by a taxable person; and
- The importation of goods and certain services from outside the European Union, irrespective of the status of the importer.

For VAT purposes, the territory of Greece excludes Mount Athos.

C. Who Is Liable

The term “taxable person” means any entity or individual that makes taxable supplies of goods or services, or intra-Community acquisitions or import of goods into Greece or distance sales (if the relevant annual threshold is exceeded), in the course of a business in Greece.

Greece does not apply a VAT registration threshold. A taxable person that commences activity in Greece must notify the Greek VAT authorities of its liability to register. This rule also applies to “non-established” businesses.

Group Registration

VAT grouping is not permitted under Greek VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no establishment in the territory of Greece. A foreign or non-established business is required to register for VAT in Greece if it engages in any of the following taxable activities:

- Supply of goods that are located in Greece at the time of supply;
- Intra-Community acquisitions (see the chapter on the European Union);
- Distance Sales in excess of the annual threshold (€35,000 – see the chapter on the European Union);

- Imports; and
- Services to which the reverse charge does not apply.

The “reverse charge” applies generally to supplies made by non-established businesses to taxable persons. Under this provision, the taxable person that receives the supply must account for the Greek VAT due. If the reverse charge applies, the non-established business is not required to register for Greek VAT.

The reverse charge does not apply to supplies of goods or services made to private persons.

VAT Representatives

A non-established business that has no permanent establishment in Greece must appoint a VAT representative in order to register for VAT. The representative must be given, among other documents required by law, a power of attorney to act on behalf of the non-established business. According to the Greek VAT law, the representative must be appointed and registration obtained before the non-established business actually begins to make any taxable supplies.

With effect from 1 January 2002, an EU business is not obliged to appoint a full VAT representative in order to register for VAT in Greece. Instead, it may appoint a limited representative. The limited representative undertakes compliance procedures, without being jointly liable with the foreign business for VAT debts and liabilities. An EU business that is required to register must obtain a Greek VAT registration number prior to making any taxable supplies in Greece and must appoint a limited representative. The limited representative may be any person engaged by the business who is resident and VAT liable in Greece (such as a legal entity or an accountant). Under this system, the foreign business may issue its invoices from abroad, using its Greek VAT registration number. The representative must account for Greek VAT, submit VAT returns and maintain the accounting books (on the basis of the invoices, which may be issued directly by the foreign company).

However, the Greek VAT authorities still require a full VAT representative to be appointed by all non-EU businesses that register for VAT. The full representative is jointly liable for VAT debts with the foreign business that it represents.

Late Registration Penalties

A penalty may be imposed for late registration. The amount of penalty ranges from €117 to €1,170, at the discretion of the VAT authorities. The penalty may be reduced to 1/3 of the amount originally imposed after negotiation.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services, as well as intra-

Community supplies of goods and intangible services supplied to a taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

In Greece, the VAT rate depends on where the supply is made. In the Dodecanese, the Cyclades and the Sporades, as well as certain Aegean Islands, the standard rate is 13%. The reduced rates in these areas are 6% and 3%. In the remaining territory of Greece, the standard rate is 18%, and the reduced rates are 8% and 4%.

The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 8% (6% in certain islands) | Examples of Goods Services Taxable at 4% (3% in certain islands) |
|--|---|---|
| Postal services | Foodstuffs | Books |
| Finance | Pharmaceuticals | Newspapers |
| Insurance | | Magazines |
| Sales and rental of immovable property | | |
| Medical services | | |
| Healthcare | | |
| Education | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.”

Goods

The basic time of supply for goods is when they are put at the purchaser’s disposal. If the supplier undertakes the obligation to forward the goods to the buyer, the time of supply is at the beginning of the transportation. For installed goods the time of supply is when installation is completed. If the supplier issues an invoice before the basic time of supply, the time of supply becomes the invoice date.

Services

In general, the time of supply for services is when they are performed. If the supplier issues an invoice before the basic time of supply, the time of supply becomes the invoice date.

Prepayments

Payments received before the supply of goods or services or the issue of a VAT invoice, are known as advance payments. Advance payments do not create a tax point.

Intra-Community Acquisitions of Goods

For intra-Community acquisitions the time of supply is when the goods are put at the purchaser's disposal. If the supplier undertakes the obligation to forward the goods to the buyer, the time of supply is the beginning of the transportation. VAT is due upon the issue of an invoice, or by the 15th day of the month following that in which the supply took place, whichever is the earlier.

Imported Goods

The time of supply for an importation is when the importation is effected, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Greece, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

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

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax is Non-Deductible

Hotel accommodation
 Business gifts valued at more than €10
 Lease, purchase, hire and maintenance of cars
 Fuel for cars
 Business entertainment
 Home telephone bills
 Taxis
 Public transport
 Food, drink and tobacco

Examples of Items for which Input Tax is Deductible (if related to a taxable business use)

Books
 Attending conferences and seminars
 Lease, purchase, hire and maintenance of vans and trucks
 Fuel for vans and trucks
 Mobile phones
 Utilities

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Greek taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This

situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes.

The amount of input tax that may be recovered is calculated in two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, on general business overheads) that may be allocated to taxable supplies and recovered. The calculation is based on the values of taxable supplies made compared with total turnover. The partial exemption recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 75.1% is rounded up to 76%).

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is generally deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage changes during the adjustment period.

In Greece, the capital goods adjustment applies to the following assets for a period of five years:

- Land and buildings; and
- Other movable capital assets.

The adjustment is applied each year following the year of use, to a fraction of the total input tax ($\frac{1}{5}$ for all capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. If a preliminary VAT return results in an input VAT credit, the amount is carried forward to offset output VAT payable in subsequent periods.

If a business terminates its taxable activity, a refund of any excess input VAT is mandatory. For an ongoing business, if set-off is not possible, the excess credit may be requested as a refund on the basis of a petition filed with the appropriate VAT Authorities, in principle, following the submission of the annual VAT return. Exceptionally, a refund claim may be filed following the submission of a periodic VAT return, if the “statute barring” period for the claim will end prior to the deadline for the submission of the VAT clearance return. The “statute barring” period is completed at the end of three years, starting from the end of year when the clearance return giving rise to the VAT credit balance is submitted. The refund is made on the basis of a temporary inspection

performed by the appropriate tax authority. Refunds ought to be repaid within four months from the submission date of the claim. In practice, however, the statutory deadline is not respected and refunds are generally delayed.

Refunds of VAT are also made in other, circumstances; for example, for VAT incurred on the purchase of investment goods or for input VAT that relates to goods and services used for making supplies that are exempt with credit. In brief, the following conditions apply:

- A refund claim filed may refer to either one or more tax periods or even a whole fiscal year;
- 90% of the VAT amount claimed should be refunded within the statutory deadline of one month from the submission date of the claim, on the basis of the documents accompanying the refund claim (petition). In practice, however, the one-month refund deadline is not always met;
- The remaining 10% of the VAT amount claimed is refunded within the fiscal year when the clearance VAT return is filed. If the total VAT to be refunded exceeds €6,000, a tax audit is performed before the 10% is refunded; and
- The first time a VAT refund claim is filed, a temporary tax inspection precedes the refund of any VAT amount.

G. Recovery of VAT by Non-Established Businesses

Greece refunds VAT incurred by EU businesses that are neither established in Greece nor registered for VAT there. Refund is made under the terms of the EU 8th Directive. Greece does not yet refund VAT under the terms of the EU 13th Directive to businesses established outside the European Union, with the exception of businesses established in Switzerland and Norway. A Swiss, Norwegian, or EU business is allowed to claim Greek VAT to the same extent as a Greek taxable person.

For the general VAT refund rules of the EU 8th and 13th Directive refund scheme, see Chapter on the European Union.

Refund Application

The deadline for refund claims is June 30 of the year following that in which the tax was incurred. This deadline is firm and may not be waived or extended.

Claims must be submitted in Greek and must be accompanied by the appropriate documentation (see below). The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25.

A certificate of status issued by an appropriate foreign tax authority must accompany the VAT refund claim (together with a Greek translation). The certificate must identify the applicant and provide evidence that it is a taxable person. This certificate is valid for one year. The original invoices must also accompany the VAT refund application.

Applications for refunds of Greek VAT must be sent to the following address:

The Hellenic Republic
Ministry of Finance, VAT Division
Directorate of VAT Administration and Resources
Sina 2-4, 10672
Athens
Greece

Repayment Interest

The Greek VAT authorities do not pay interest on EU 8th Directive refunds.

H. Invoicing

VAT Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer. A document qualifies as a valid invoice on condition that it complies with requirements set out on the Greek law (the Code of Books and Records).

A valid original VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th Directive refund scheme (see the chapter on the European Union). Invoices that do not comply with requirements in the Greek Code of Books and Records do not constitute valid evidence to support input tax deduction.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original VAT invoice.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Greece. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs, showing the supplier as the exporter, together with the bill of lading issued by the transporter; and
- For an intra-Community supply, a range of commercial documentation (such as dispatch notes, the bill of lading and proof of payment).

Foreign Currency Invoices

If an invoice is issued or received in a foreign currency, the amounts must be converted into Euros (€). The exchange rate to be used is issued by the Ministry of Finance (VAT Directorate).

I. VAT Returns and Payment

VAT Returns

Greek VAT returns are submitted monthly if turnover exceeds €1 million per year. If turnover is less than €1 million, VAT returns are submitted quarterly. In addition, all taxable persons must submit annual returns.

VAT returns and full payment of the VAT due must be made in principle by the 20th day of the month following the end of the return period.

No periodic return is required if a taxable person has no VAT to pay for a tax period (for example, if the taxable person is in a credit VAT position or the tax due is nil). However a return is required if the taxable person has engaged in intra-Community trade or if a refund is requested. Businesses that submit monthly VAT returns must obligatorily file periodic VAT returns electronically. The deadline for submission of the return and payment by bank transfer is the 26th day of the following month. Electronic submission does not apply to late VAT returns.

Annual VAT Return

A final (annual) VAT return must be filed in person by the 25th day of the second month following the end of the financial year (for businesses that file quarterly VAT returns) or by the 10th day of the fifth calendar month following the end of the financial year (for businesses that file monthly VAT returns).

Small Businesses – Simplified Accounting

“Category A” taxable persons are taxable persons whose annual turnover does not exceed €100,000. With effect from 1 January 2003, Category A taxable persons that do not engage in intra-Community trade may opt for a special VAT regime. Under this provision, the taxable person is not required to submit periodic VAT returns. VAT payments throughout the year are based on the VAT paid in the previous tax year, increased by 10%. A balancing payment (or credit) based on actual turnover is made with the annual VAT return.

A taxable person that wants to use the simplified VAT accounting regime must file a declaration with the VAT authorities by the last day of January in the year when the treatment is adopted and then annually thereafter. A taxable person that elects to use the simplified accounting regime must use it for a minimum period of three years.

Penalties

Penalties are charged for VAT returns that are submitted late or not at all, and for returns that inaccurate, in the following amounts:

- For late filing – an additional tax is imposed at a rate of 1.5% monthly, up to a maximum of 100% of the VAT due;
- For inaccurate filing – an additional tax is imposed at a rate of 3% monthly, up to a maximum of 200% of the VAT due;
- For non-filing – an additional tax is imposed at a rate of 3.5% monthly, up to a maximum of 200%.

Penalties for inaccurate or lack of filing VAT returns may be reduced to 3/5 if an out-of-court settlement is agreed upon with the VAT authorities.

J. EU Declarations

INTRASTAT

A Greek taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value

of its intra-Community sales or purchases exceeds certain thresholds. Separate reports are used for intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches).

The threshold for INTRASTAT Arrivals for the calendar year 2005 is €40,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €44,000.

INTRASTAT returns may be filed on paper or electronically. .

The INTRASTAT return period is monthly. The submission deadline is the 20th day of the month following the end of the INTRASTAT return period. Businesses that submit periodical VAT returns on a monthly basis through electronic means, must file Intrastat returns using the same deadline, that is, by the 26th day of the following month.

Penalties may be incurred if INTRASTAT declarations are late or missing. The amount of the penalty, which may range from €117 to €1,170, is at the discretion of the VAT authorities. The penalty may be mitigated by up to one-third.

EC Sales Lists

If a Greek taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL). No ESL is required in any period in which no intra-Community supplies have been made.

ESLs are submitted electronically on a quarterly basis, by the 20th day of the month following the reporting period. Businesses that submit periodical VAT returns on a monthly basis through electronic means, must file ESLs within the deadline provided for the submission of the periodic VAT return, that is, by the 26th day of the following month.

Penalties may be incurred for late or missing ESLs. The penalty may range from €117 to €1,170. The amount assessed is at the discretion of the VAT authorities. The penalty may be mitigated by up to one-third.

GUATEMALA

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| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 1 July, 1992 |
| European Union (EU) Member State | No |
| Administered by | The Tax Administration Superintendence (SAT) http://www.sat.gob.gt |
| VAT Rates | |
| Standard | 12% |
| Reduced | 5% (of gross sales for taxpayers with annual gross sales below Q 60,000, with no input tax recovery) |
| Other | A fixed amount on purchases of used vehicles and motorcycles; Exempt and Zero Rated |
| VAT Number Format | Tax Identification Number (NIT) |
| VAT Return Periods | Monthly Quarterly (for taxable persons with annual turnover below Q 60,000) |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The sale or exchange of movable goods or rights derived there from;
- The rendering of services within Guatemala;
- Imports;
- Leasing of movable and immovable property;
- Auto-consumption and consumption by the employees, executives, directors and shareholders of the company, or their family members;
- Certain shortages of inventory such as those derived from the destruction or loss of merchandise;
- Sale or exchange of immovable assets; and
- Certain Donations

C. Who Is Liable

Any business entity or self employed individual that carries out taxable activities on a regular or periodical basis must register for VAT. Taxable persons whose annual turnover does not exceed Q 60,000 may opt to use a simplified VAT regime.

Group Registration

VAT grouping of separate legal entities is not allowed under the Guatemalan VAT law. Legal entities that are closely connected must register for VAT individually.

Small Taxpayers

Small taxpayers with annual gross sales up to Q 60,000 may apply for a simplified regime. Under the simplified regime, taxpayers pay 5% over their gross taxable sales, without a right to credit or deduct VAT input tax (see section F *Recovery of VAT by Taxable Persons*).

Non-Established Businesses and Tax Representatives

A “non-established business” is a business that has no fixed establishment in the territory of Guatemala. A non-established business is obliged to register for VAT if it supplies goods or services in Guatemala. In order to register for VAT, a non-established business must appoint a tax representative. It must also provide the VAT authorities with a copy of its articles of incorporation, legalized by a Guatemalan consulate, together with an official translation into Spanish.

VAT Withholding

If a non-established business (that is, non-domiciled) renders an occasional, temporary service within Guatemala (or performs another taxable activity), for a local taxpayer, without being registered for VAT, the local taxpayer must withhold the VAT due and issue a special invoice to document the transaction.

D. VAT Rates

In Guatemala, the standard rate of VAT is 12%. The standard rate applies to all supplies of goods or services, unless a specific provision allows an exemption. A 5% rate on gross sales applies to small taxpayers.

A fixed amount applies to purchases of used vehicles and motorcycles.

In addition to activities that are liable to tax, some activities are exempted and zero-rated. Export of goods and services are zero rated. (see section F *Recovery of VAT by Taxable Persons*).

The following table lists examples of exempt supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

| | |
|---|--|
| Transfer of assets in a merger | Certain financial services |
| Supplies by cooperatives to their members | Capital Contributions Education |
| Low-value retail sales of meat, fish, seafood or shellfish, fresh fruits and vegetables, cereals and basic grains in cantonal and municipal markets | Certain insurance and reinsurance transactions |

E. Time of Supply

The time when the taxable event is considered to be completed and VAT becomes due is called the “tax point.” For a supply or exchange of goods, the tax point is the earliest of either the issue of the invoice or the delivery of goods. For a supply of services, the tax point is when the invoice, receipt or other document related to the transaction is issued. If no invoice is issued, the tax point is at the time of payment.

Continuous Supplies of Services

For a continuous supply of services for which the customer pays periodically, the tax point is the due date for each periodic payment.

Imported Goods

The time of supply for imported goods is when the goods clear all customs formalities for importation.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services subject to tax. Input tax is generally credited against output tax, which is VAT charged/ collected on the sale of goods and the rendering of services. To deduct or credit input tax, certain conditions must be met. Input tax may be deducted or credited in the month when the invoice is received or in the following two months.

In general, input tax paid on imports or purchases of goods and services should be creditable.

A valid tax invoice or customs document must generally accompany a claim for an input tax credit.

Non-Deductible Input Tax

Input tax may not be recovered on imports or purchases of fixed assets not related with the taxpayer’s business activity..

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxable person earns an input VAT credit. The credit may be carried forward to offset against output tax in subsequent VAT periods.

Exporters are allowed to claim a refund of VAT paid on inputs. The Bank of Guatemala (Central Bank) maintains a register of “qualified exporters.”

To qualify for the register of exporters, the taxpayer must provide the Bank of Guatemala with documents that prove it satisfies one of the following conditions:

- Exports 50% or more of its gross sales; or
- Exports less than 50% of its gross sales and is not able to fully offset its input tax credit related to its exports against output tax generated from domestic supplies.

A taxpayer that is registered as an exporter may file a refund request with the Bank of Guatemala within 30 business days following the end of the period for which the refund is claimed. No

repayment is granted for amounts lower than Q 2,000. For claims greater than Q 2,000, the Bank of Guatemala partially refunds the VAT paid by exporters as follows:

- 75% of refund amounts under Q 500,000; and
- 60% of refund amounts higher than Q 500,000.

The remaining 25% or 40% is carried forward to the next periods.

A nonqualified exporters is allowed to request a 100% VAT refund from the tax authorities directly, provided that it is not able to credit VAT on inputs from their VAT on outputs.

G. Recovery of VAT by Non-Established Businesses

Guatemala does not refund VAT incurred by foreign or non-established businesses unless they are registered as Guatemalan VAT taxpayers.

H. Invoicing

VAT Invoices and Credit and Debit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made. VAT invoices, credit and debit notes, must be authorized by the tax authorities. An invoice is generally necessary to support a claim for an input tax credit. If the nature of a business makes it impractical for a taxable person to issue tax invoices, the tax authorities may authorize the use of cash registers and other computerized systems to issue receipts instead of invoices.

A VAT debit note must be used to increase the VAT chargeable if the value of a supply increases for any reason. A VAT credit note must be used to reduce the VAT charged and claimed on a supply if the value is reduced for any reason (for example, because a discount is granted, there is a change in the price or the goods are returned). A debit note or credit note must carry the same information as a tax invoice.

Exports

Exports of goods and services are zero rated. However, to qualify as VAT-zero rated, exports must be supported by customs documents that give evidence of the outbound process (known as, DEPREX or FAUCA) . Suitable evidence also includes export invoices and bills of lading.

Foreign Currency Invoices

VAT invoices must be issued either in Guatemalan currency (Guatemalan quetzals (Q)) or in US dollars (\$); however, invoices issued in US dollars must show the exchange rate used.

I. VAT Returns and Payment

VAT Returns

VAT returns are generally submitted monthly. VAT due must be paid in full when the return is submitted.

Taxable persons whose annual turnover does not exceed Q 60,000 may pay VAT quarterly. The due date is 10 days following the end of the quarter.

Penalties

Non-payment of VAT due generates a penalty equal to 100% of the unpaid amount. If the penalty is paid voluntarily, within the term required by the VAT authorities, the penalty is reduced to 50%.

HONDURAS

Country Code 504

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) or Sales Tax |
| Local Name | Impuesto Sobre Ventas |
| Date Introduced | 1 January 1964 (and subsequent amendments) |
| European Union (EU) Member State | No |
| Administered by | The Ministry of Finance http://www.dei.gob.hn |
| VAT Rates | |
| Standard | 12% |
| Higher | 15% |
| Other | Exempt |
| VAT Number Format | National Tax Registry Number (known as the "RTN") |
| VAT Return Periods | Monthly Annually (taxable turnover between L 60,000 and L 120,000) |
| Thresholds | |
| Registration | None |
| Exoneration from VAT filing | Taxable Turnover below L 60,000 |
| Small Taxpayer | Taxable Turnover between L 60,000 and L 120,000 |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of taxable goods or services made in Honduras by a taxable person;
- Self-Consumption; and
- The importation of goods or services from outside Honduras, irrespective of the status of the importer, but with the exception of exempted goods or services.

C. Who Is Liable

A taxable person for VAT purposes is any entity or individual that supplies taxable goods or services in Honduras in the course of doing business. Taxable persons that deal mainly with final consumers may be designated as withholding agents for VAT. All businesses must register as taxpayers; no separate register of VAT taxpayers exists. The national tax registry number (RTN) is used for VAT purposes.

Small Businesses

Taxable persons whose annual turnover does not exceed L 60,000 are not required to pay VAT nor file VAT returns. Taxable persons whose annual turnover is between L 60,000 and L 120,000 may use the simplified VAT accounting regime.

Group Registration

VAT grouping of separate legal entities is permitted for financial and accounting purposes only. Transactions between members of a VAT group remain subject to VAT.

Non-Established Businesses and Tax Representatives

A “non-established business” is a business that has no fixed establishment in the territory of Honduras. A non-established entity is obliged to register as a taxpayer if it does business in Honduras. Foreign taxpayers must complete a tax questionnaire, which includes information such as the names of the current shareholders and the projected sales during the first year. This information must be submitted together with the following documents:

- A copy of the articles of incorporation, together with an official translation into Spanish; and
- A special power of attorney granted to a legal representative in Honduras.

These documents must be legalized by the Honduran Consul in the foreign taxpayer’s country of residence.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction.

In Honduras, the standard rate of VAT is 12%. A higher rate of VAT is charged at 15% on the import and supply of alcoholic beverages, cigarettes and other tobacco products.

The standard rate applies to all supplies of goods or services, unless a specific provision imposes the higher rate or allows an exemption.

The following table lists examples of exempt supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

| | |
|---|--|
| Goods that form part of “the average weekly shopping” | Gasoline, kerosene and related oil products |
| Pharmaceutical products | Firewood and coal |
| Cleaning fluids and disinfectants | Books and newspapers |
| Agrochemicals, fertilizers, animal feed, seeds and live animals | Leather, except fine leather goods |
| Transfer of assets in a merger or liquidation | Water and electrical services |
| Medical services | Education |
| Personal insurance and reinsurance | Passenger transport |
| Laundry services | Services supplied by barbers and beauty salons |
| | Financial services |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.”

For a supply of goods, the tax point is the earlier of the issue of the invoice and the delivery of the goods. For a supply of services, the tax point is the earlier of the issue of the invoice and the performance of the service.

Importation

The time of supply for imported goods is when the goods are “nationalized,” that is, when they clear all customs formalities for importation. For the importation of services, the tax point is the earlier of the issue of the invoice and the performance of the service.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it that are used to generate taxable income. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. Input tax may be deducted in the month when the invoice is received or in the following month.

Input tax includes VAT charged on goods and services supplied within Honduras, VAT paid on imports of goods and VAT self-assessed on reverse charge services. Input tax credit is available only for goods and services acquired to generate income and for the purchase of machinery and equipment.

A valid tax invoice or customs document must generally accompany a claim for input tax credit.

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxable person earns an input VAT credit. The credit may be carried forward to offset output tax in subsequent VAT periods. If the credit is not offset after six months, the taxable person, upon authorization granted by the tax authorities, may use the excess to offset payment of other taxes, or tax penalties and fines.

G. Recovery of VAT by Non-Established Businesses

Honduras does not refund VAT incurred by foreign or non-established businesses unless they are registered for VAT there.

Diplomats and International Organizations

Diplomatic consular delegations, and international organizations and agencies, are entitled to reimbursement for VAT paid in Honduras. Depending on the claimant's status, it may either claim a refund of the VAT or it may be given the right to offset the VAT credit by making subsequent VAT-exempt purchases. If the credit has not been offset after six months, the amount may be applied against other taxes.

H. Invoicing

VAT Invoices and Credit and Debit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. An invoice is generally necessary to support a claim for input tax credit. If the nature of a business makes it impractical for a taxable person to issue tax invoices, the VAT authorities may authorize the use of cash registers and computerized systems to issue receipts instead of invoices.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, because a discount or bonus is granted, there is a change in price or the goods are returned). A credit note must generally carry the same information as a tax invoice.

Proof of Export

VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that give evidence that the goods have left Honduras. Suitable evidence includes export invoices and bills of lading.

Foreign Currency Invoices

VAT invoices must be issued in Honduran lempira (L).

I. VAT Returns and Payment

VAT Returns

VAT returns are generally submitted monthly. Monthly returns must be submitted by the 10th day of the month following the end of the return period. Payment in full is due on the same date.

Taxable persons whose annual turnover is between L 60,000 and L 120,000 must file VAT returns annually. The filing deadline is 30 days following the end of the return period.

Taxable persons whose annual turnover is below L 60,000 are not required to file VAT returns nor pay VAT.

Return liabilities must be paid in Honduran lempira.

Penalties

The penalty assessed for the late submission of a VAT return ranges from 10% to 25% of the VAT due.

Interest is applied to underpaid VAT and penalty amounts, charged at the legal rate used by the Honduran Central Bank on the date the VAT payment was due.

Criminal tax fraud is punishable by payment of VAT due plus a penalty that ranges from twice to ten times the amount of VAT due, and a term of imprisonment ranging from one month to eight years.

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A. At a Glance

| | |
|----------------------------------|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | általános forgalmi adó |
| Date Introduced | 1 January 1988 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered By | Ministry of Finance http://www.pm.gov.hu Hungarian Tax Office http://www.apeh.hu |
| VAT Rates | |
| Standard | 25% |
| Reduced | 5% and 15% |
| Other | Exempt |
| VAT Number Format | 12345678-2-34 |
| VAT Return Periods | Monthly (if net VAT payable in the tax year or preceding year exceeds HUF 1 million) Quarterly (general) Annual (if taxable turnover in the preceding year did not exceed HUF 8 million and net VAT payable did not exceed HUF 1million) Two-weekly (on request, in special cases) |

| | |
|---|---------------|
| Thresholds | |
| Registration | HUF 4 million |
| Distance Selling | €35,000 |
| Intra-Community Acquisitions | €10,000 |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Hungary by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see chapter on the European Union);
- Reverse charge services received by a Hungarian taxable person; and
- The importation of goods into Hungary, irrespective of the status of the importer.

Special rules apply to intra-Community transactions involving new means of transport and distance sales (see chapter on the European Union).

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services in the course of a business.

Every entity or individual that undertakes a business activity in Hungary must register for VAT prior to the commencement of that activity.

Small Businesses – Exemption from Registration

If a taxable person’s turnover did not exceed HUF 4 million in the previous VAT year, it may request VAT exemption status. The request for exemption must be filed before the end of the VAT year preceding the year when the exemption is to take effect. A new business may request exemption from registration if its anticipated turnover is not expected to exceed HUF 2 million a year. The request for exemption must be filed at the time of registration.

If exempt status is granted, the business must still register for VAT, but it may not charge VAT on its supplies nor recover input VAT on its expenses and purchases. In addition, the business is not required to file any VAT returns.

Group Registration

VAT group registration is only available for financial institutions as well as investment and insurance companies. A branch of a foreign company that qualifies for grouping may also be included. The group regime only applies to supplies of services.

Non-Established Businesses

A “non-established business” is a business that has no establishment in Hungary. A non-established business that makes supplies of goods or services in Hungary must register for VAT if it

is liable to account for Hungarian VAT on the supply, or if it makes intra-Community supplies or acquisitions of goods.

The “reverse charge” applies generally to supplies made by non-established businesses to taxable persons that file periodic VAT returns. Under this provision, the taxable person that receives the supply must account for the Hungarian VAT due. If the reverse charge applies, the non-established business is not required to register for Hungarian VAT.

A non-established business must, therefore, register for Hungarian VAT if it makes any of the following supplies:

- Intra-Community supplies;
- Intra-Community acquisitions;
- Distance sales in excess of the threshold; and
- Supplies of goods and services that are not subject to the reverse charge (for example, goods or services supplied to private persons).

Tax Representative

Businesses that are established in the European Union may register for VAT without appointing a tax representative. However, EU businesses may opt to appoint a tax representative under certain conditions.

Businesses that are established outside the European Union must appoint a resident tax representative to register for Hungarian VAT. The tax representative is jointly liable for VAT debts with the business that it represents.

All non-established businesses must register with the office for foreign taxpayers:

APEH Észak-budapesti Igazgatóság
 Általános Fosztály
 Speciális adózái kör számára
 1138 Budapest
 Madarász V. 5/a.

Late Registration Penalties

If a taxable person fails to register for VAT, a default penalty of HUF 200,000 applies. In addition, the VAT authorities notify the taxable person of its obligation to register. The fine is doubled if the taxable person fails to register within the defined deadline.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include for example, exports of goods outside the European Union and related services (for example, related to transport) and intra-Community supplies of goods.

In Hungary, three rates of VAT currently apply – the standard rate at 25%, the reduced rates at 15% and 5%. The standard rate of

VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 5% | Examples of Goods and Services Taxable at 15% |
|--|---|--|
| Financial services | Human medicines and certain medical products | Basic foodstuffs and catering |
| Insurance | Books | Hotel accommodation |
| Public postal services | | Certain Energy products |
| Approved education | | Periodicals, musical notes and maps |
| Lease of property | | Copyright protected services |
| Sales of securities | | Transport of persons |
| Sale of lease of land | | Certain cultural and leisure activities |
| Human medical care | | Restaurants |
| Folk and hand-crafted goods | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The time of supply rules are determined by the Hungarian Civil Code, unless the VAT law contains a special provision relating to a particular supply.

Generally, the time of supply for goods is when the sale is made or, if earlier, when the purchaser or lessee receives the right to dispose of the goods as owner. For services, the time of supply is generally when they are performed.

Deposits and Prepayments

A prepayment or deposit creates a time of supply when the payment is received. The amount is considered to be inclusive of VAT.

Continuous Supplies of Services

For services that are supplied continuously and paid for periodically, a time of supply is created at the due date for the individual periodic payments. Only public utility services and telecommunication services are considered to be supplied continuously.

Services that are supplied on a regular basis but that do not qualify as continuously supplied may be invoiced periodically. The tax point is the earlier of the last day of the period that the invoice refers to or the last day of the supplier’s tax return period.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the date of issuance of the invoice or the 15th day of the month following the month when the supply took place.

Imported Goods

The time of the supply for imported goods is either the date of acceptance of the customs declaration, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Hungary, VAT paid on intra-Community acquisitions and imports of goods as well as any VAT self-assessed for reverse charge services received from outside Hungary.

In Hungary, input tax may be claimed only if the supplier has been paid in full by the due date for the return.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice.

The general rule is that input VAT is deductible from output VAT charged in the same VAT period. If the amount of input VAT exceeds the amount of output VAT in the period, the excess generally must be carried forward to the next filing period. The excess may be recovered as a repayment only if certain conditions are fulfilled (see the section on *Refunds* below).

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

The following table sets out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible, if it relates to a taxable business use. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Non-business expenditure
Purchase of a car
Fuel for cars
Taxi services
Car maintenance costs
50% of telecommunication services

Examples of Items for which Input Tax Is Deductible (if related exclusively to a taxable business use)

Car maintenance costs
Lease or hire of a car
Purchase, lease, hire of vans and trucks
Diesel fuel for vans and trucks
Books related to business activities
Conferences
Advertising
Accommodation
Attending exhibitions
Transport

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Hungarian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption.

The amount of input tax that may be deducted is calculated in two stages:

- The first stage is the direct allocation of VAT to exempt and taxable supplies. Input tax directly allocable to exempt supplies is not deductible; input tax directly allocable to taxable supplies is deductible. Exempt with credit supplies are treated as “taxable supplies” for these purposes.
- The second stage is to prorate the remaining input tax that relates to both taxable and exempt supplies based on the percentage of taxable supplies to total supplies made (called the deduction ratio). This treatment may apply, for example, to input tax on business overheads. The deduction ratio is calculated up to two decimal places. The amount of VAT recoverable must be rounded up to units of HUF 1,000.

When calculating the pro rata, a taxable person may initially use the deduction ratio figures for either the current tax year or for the previous tax year. However, if the previous year’s figures are used, the calculation must be adjusted at the end of the VAT year, using the relevant information for the current year.

Capital Goods

Capital goods are tangible items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption deduction ratio in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption deduction ratio changes during the year under review by more than 10%.

In Hungary, the capital goods adjustment applies to the following assets for the number of years indicated:

- Land and buildings (adjusted for a period of 10 years); and
- Tangible capital assets (adjusted for a period of five years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for land and buildings and $\frac{1}{5}$ for other tangible capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

If a Hungarian taxable person sells an asset on which no input tax was deducted, a proportion of the input tax becomes deductible. The qualifying period for this treatment is the same as the capital goods adjustment period, 60 months (5 years) for tangible assets and 120 months (10 years) for land and buildings.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable

person has an input tax credit. A taxable person may request a refund of the credit if certain conditions are met:

- Taxable turnover must be at least HUF 4 million in the calendar year (or at least HUF 2 million if the business is engaged exclusively in the international transportation of goods);
- A repayment may be claimed if the input VAT paid on the acquisition of tangible assets, including those manufactured by the taxable person, exceeds VAT charged in the same period by at least HUF 200,000.

If a taxable person is not permitted to request a repayment, the excess input tax may be carried forward to the following period to offset against output VAT payable.

If a repayment is claimed, the VAT authorities must pay it within 45 days after the due date of the return, or within 30 days if the amount requested is less than HUF 500,000. If the repayment is not made within these time limits, the VAT authorities must also pay interest, calculated from the due date of the repayment.

G. Recovery of VAT by Non-Established Businesses

The Hungarian VAT authorities refund VAT incurred by businesses that are not established in Hungary nor registered for VAT there. A non-established business is allowed to claim Hungarian VAT to the same extent as a Hungarian taxable person.

Hungary applies the reciprocity principle to refunds, that is, refunds are granted to businesses established in countries that refund VAT to Hungarian businesses. Refunds are currently permitted to businesses established in another EU Member State, Liechtenstein and Switzerland.

Refund Application

The deadline for submitting applications is 30 June following the claim year. This deadline is strictly enforced. The claimant must submit the application form issued by the Hungarian VAT authorities together with the relevant documents, including the original invoices. The claimant must also submit a certificate issued by the VAT authorities in the country in which it is established, certifying its status as a taxable person. The applicant must prove that it paid the gross amount of the invoices. In addition, the Hungarian suppliers must also provide a declaration that the invoices were fully paid.

The form may be completed in Hungarian, German or English. However, all correspondence with the tax authorities must be in Hungarian. A non-established claimant may appoint a lawyer, legal advisor or tax consultant resident in Hungary to represent it in any dealings with the VAT authorities. If a representative is used, the original power of attorney appointing the representative must accompany the repayment claim form.

The minimum claim period is a quarter if the VAT recoverable in the quarter exceeds €200 (HUF 51,000). Claims may be submitted more frequently, provided that the requested amount exceeds HUF 300,000. The maximum claim period is one calendar year. The minimum claim allowed is €25 (HUF 7,000) per invoice.

The refund is paid in Hungarian forints (HUF) into the bank account notified by the claimant. This account may be either a bank account in Hungary or in the country where the claimant is registered. If the claimant provides the tax authority with a foreign bank account number, the costs related to the bank remittance are the claimant's responsibility and the refunded amount is reduced accordingly.

All documents relating to the VAT reclaim must be sent to the Hungarian VAT authorities at the following address:

APEH Észak-budapesti Igazgatósága
Külföldiek Ügyeit intéző Főosztály
H-1387 Budapest, Pf.: 45
Hungary

Repayment Interest

The Hungarian law provides that repayments must be made within 30 days (or within 45 days if the amount reclaimed exceeds HUF 500,000) after the date the claim is approved. If the VAT authorities do not repay the claim within this time limit, the claimant is entitled to interest.

H. Invoicing

VAT Invoices and Credit Notes

A Hungarian taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices must be issued in Hungarian, but bilingual invoices may be issued in Hungarian and another language.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The document must be clearly marked "credit note" and it must refer to the original invoice. A credit note must also indicate the reason for the correction and any new items arising from the correction.

Proof of Exports and Intra-Community Supplies

No VAT is charged on exports and intra-Community supplies. To qualify as VAT exempt, exports and intra-Community supplies must be accompanied by evidence that the goods have left Hungary within six months. Suitable documentary evidence includes the following:

- For an export a copy of the "uniform customs declaration" submitted to the customs authority is suitable evidence; and
- For an intra-Community supply, evidence should be given by a shipping document or using any other credible means.

Foreign Currency Invoices

If an invoice is issued in a foreign currency, the taxable value must be converted in Hungarian forints using the official exchange rate quoted by the National Bank of Hungary for the time of supply. If the National Bank of Hungary does not quote the foreign currency used, the Euro rate must be used for the conversion into Hungarian forints. The conversion is based on the Euro exchange rate for the quarter preceding the time of supply of the transaction.

I. VAT Returns and Payment

VAT Returns

In general, Hungarian taxable persons must file quarterly tax returns. However, taxable persons whose net VAT payable in the tax year, or in the preceding year, exceeds HUF 1 million must file monthly.

Taxable persons whose annual payable VAT for the previous tax year does not exceed HUF 250,000 must file VAT returns annually, provided that they were not given an EU VAT identification number. However, a taxable person in this position may opt to file quarterly returns.

Monthly and quarterly VAT returns must be filed by the 20th day of the month following the tax period. The annual return is due by 15 February in the year following the tax year. Payment in full is required on the same date.

VAT return liabilities must be paid in Hungarian forints.

Penalties

A maximum penalty of HUF 200,000 and late payment interest apply to the late submission of a VAT return. If the return is filed on time but the VAT is paid late, late payment interest is charged. The interest rate used is double the prevailing prime rate multiplied by $\frac{1}{365}$ for each day of lateness.

If the return has not been filed and the VAT is unpaid, the penalty is 50% of the tax arrears, plus late payment interest.

No late payment interest is levied if the taxable person is able to justify the default. The default penalty may also be reduced or cancelled if it is thought that the charge could cause the business to cease trading.

J. EU Declarations

INTRASTAT

With effect from 1 May 2004, a taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT.

Recapitulative Statements

In addition a taxable person has to file Recapitulative Statements (EC Sales Lists and EC Acquisition Lists).

Penalties may be imposed for late, missing and inaccurate INTRASTAT returns and Recapitulative Statements.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Pajak Pertambahan Nilai (PPN) |
| Date Introduced | 1 January 1984 |
| Administered by | The Directorate General of Taxes http://www.pajak.go.id |
| VAT Rates | |
| Standard | 10% |
| Other | Zero Rate and Exempt |
| VAT Number Format | 11.111.111.1-111.111 |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration (Small Entrepreneur) | IDR 600 million for supplies of goods or services (with effect from 1 January 2004) |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- Supplies of goods and services made in Indonesia in the course of a business by a taxable entrepreneur;
- Imports of goods into Indonesia, irrespective of the status of the importer;
- The utilization of taxable services and intangible goods provided by overseas entities inside Indonesia; and
- Exports of goods.

C. Who Is Liable

All businesses engaged in deliveries subject to VAT are required to register for VAT as “taxable entrepreneurs,” unless they qualify as “small entrepreneurs.” This requirement applies to the permanent establishment of a nonresident business located in Indonesia.

Small Entrepreneurs

With effect from 1 January 2004, the definition of a “small entrepreneur” is any business that makes taxable supplies of goods and/or services if its gross annual turnover does not exceed IDR 600 million.

NonResident Businesses and Tax Representatives

Nonresident businesses are required to appoint a tax representative in order to register for VAT in Indonesia.

Late Registration Penalties

If a taxable entrepreneur registers late, penalties may be imposed on the supplies of taxable goods and services made prior to the date of registration. Input VAT (see Section F *Recovery of VAT by Taxable Persons*) incurred during the period prior to registration may not be claimed as a deduction against output VAT due after the registration date.

D. VAT Rates

The term “taxable supplies” refer to supplies of goods and services that are liable to VAT, including at the zero rate. Two VAT rates apply – the standard rate at 10% and the zero rate (0%), which applies to exported goods only.

The term “exempt supplies” is used for supplies of goods and services that are exempt from VAT and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

The following table lists examples of exempt supplies of goods and services and zero-rated goods. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Official textbooks

Vaccines

The sale or lease of certain ships, aircraft and trains

Some real estate transactions

Services supplied by the national army

Special VAT-Free Regimes

Examples of Zero-Rated Supplies of Goods

Exports of goods

Other VAT regimes exist, which technically eliminate the payment of VAT due, including the following circumstances:

- The exemption from import VAT approved by the Indonesian Coordinating Board for Capital Investment;
- The noncollection of VAT payable to companies within bonded zone areas, manufacturers of goods for export and manufacturers within certain economic development territories (approval is required from the Ministry of Finance); and
- Noncollection of VAT payable arising from goods or services supplied by principal contractors of projects financed by foreign aid loans or grants.

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Indonesia, VAT becomes payable when taxable goods or services are delivered. Tax invoices must be issued by the end of the month following the delivery of goods or services, or on receipt of payment for a supply of goods or services, whichever is the earlier.

Imported Goods

The time of supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Indonesia and VAT paid on imports.

A valid standard tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchases used for non-business purposes
Business gifts
Purchase, lease or hire of benefits in kind (such as employee accommodation car, or personal cars)

Examples of Items for which Input Tax Is Deductible (if directly related to a taxable business use)

Advertising
Attending conferences and seminars
Purchase, lease or hire of a car, van or truck
Maintenance and fuel for a van or truck
Business travel expenses

Refunds

If the amount of input tax credits in a period exceeds the VAT payable in the same period, the excess amount is refundable. Refund claims may be submitted monthly, using the VAT return. The Indonesian tax authorities conduct audits to ensure the validity of VAT refund claims. The tax audit must be concluded within one year from the date of the request for a refund.

If the tax audit confirms that the VAT refund claim is valid, the taxable person may recover the overpaid tax within one month

after the date of the tax audit assessment letter. The Indonesian tax authorities must pay interest penalty for delays in making valid repayments, calculated at the rate of 2% per month of the tax refundable.

G. Recovery of VAT by NonResident Businesses

Indonesia does not refund VAT incurred by businesses that are neither established nor registered for VAT in Indonesia. A permanent establishment of a nonresident business in Indonesia may request a VAT refund in the same way as other Indonesian taxable persons.

H. Invoicing

VAT Invoices and Credit Notes

An Indonesian taxable entrepreneur must provide a standard VAT invoice for all taxable supplies made. A simplified tax invoice may be used if detailed tax information of the purchaser is not available and the purchaser is an end-user of the goods (for example, for retail sales).

A standard VAT invoice is generally necessary to support a claim for input tax credit.

Purchasers who return goods to suppliers may issue credit notes. A credit note must make reference to the original VAT invoice and clearly indicate details of the returned goods. A credit note may be used to adjust the amount of VAT due for a taxable supply of goods.

Proof of Exports

Exports of goods are zero-rated for VAT. However, to qualify as zero-rated, export supplies must be supported by evidence that the goods have left Indonesia. Valid evidence of export includes "Notification of Export Goods" (PEB) documents, issued by customs for goods that have been approved for loading.

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, the amounts shown must be converted to Indonesian rupiah (IDR), using the official exchange rate issued by the Minister of Finance on the date when the VAT invoice is issued.

I. VAT Returns and Payment

VAT returns are filed monthly. The due date for reporting information is the 20th day of the month following the end of the tax return period. The due date for payment of VAT is the 15th day of the month following the end of the return period.

Return liabilities must be paid in Indonesian rupiah.

Penalties

A penalty is charged at the rate of 2% per month on late payments of VAT. An additional penalty of IDR 100,000 is assessed for each VAT return submitted late.

A penalty, charged at the rate of 2% of the sales value, is charged for the late issuance of VAT invoice or for not fully completing the VAT invoice.

In the case of severe evasion or fraud, criminal penalties apply. A criminal tax offense is punishable by imprisonment for a maximum period of six years and by the imposition of a fine, up to a maximum amount equal to four times the unpaid tax. These criminal penalties are doubled if a taxable person commits a further criminal tax offense within one year of completing a prison sentence for a tax offense.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 November 1972 |
| European Union (EU) Member State | Yes |
| Administered by | The Revenue Commissioners http://www.revenue.ie |
| VAT Rates | |
| Standard | 21% |
| Reduced | 13.5% and 4.8% |
| Other | Zero Rate and Exempt |
| VAT Number Format | IE 1234567 A |
| VAT Return periods | Bimonthly Annually Annual return of trading details (all businesses) |
| Thresholds | |
| Registration | €25,500 (for persons supplying services) €51,000 (for persons supplying goods) |
| Non-Established Businesses | Nil |
| Distance Selling Intra-Community Acquisitions | €35,000 €41,000 |

| | |
|---|-----|
| Recovery of VAT by Non-Established Businesses | Yes |
|---|-----|

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Ireland by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person;
- Reverse charge services received by a taxable person in Ireland; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

C. Who Is Liable

The term “taxable person” refers to any entity or individual that is or should be registered for VAT. A liability to register arises from making “taxable supplies,” which include the supply of goods or services, intra-Community acquisitions and distance sales made in the course of a business in the Republic of Ireland. An entity that exclusively makes exempt supplies is not generally treated as a taxable person.

The VAT registration thresholds in Ireland depend on the type of supplies made. For an Irish resident business or a fixed establishment of a foreign business, the limits are:

- €25,500 for persons supplying services;
- €51,000 for persons supplying goods;
- €25,500 for persons supplying goods that are liable at the 13.5% or 21% rates and have been manufactured or produced from zero-rated materials;
- €35,000 for persons making mail order or distance sales into Ireland; and
- €41,000 for persons making intra-Community acquisitions.

A business is required to register for VAT as soon as its turnover is likely to exceed the relevant threshold.

Option for Registration

A business established in Ireland whose turnover does not exceed the registration threshold is not obliged to register for VAT. However, a business that makes taxable supplies may opt to register in these circumstances.

Similarly, a new business may request registration in advance of making taxable supplies as soon as it is clear that it will become a taxable person.

Group Registration

The Revenue Commissioners may grant group registration status to companies established in Ireland that are closely bound by “financial, economic and organizational links.”

A VAT group is treated as a single taxable person. VAT is not charged on supplies between group members, with the exception of certain supplies of real estate. Group members are jointly and severally liable for all VAT liabilities.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Ireland. No VAT registration threshold applies to supplies made in Ireland by a non-established business. VAT registration is required if a non-established business makes any of the following supplies:

- Goods located in Ireland at the time of supply;
- Intra-Community acquisitions in excess of the annual threshold; or
- Distance Sales in excess of the annual threshold (see the chapter on the European Union).

Registration is not required if all the supplies made by the non-established business are subject to the “reverse charge” (self assessment for tax by the recipient of the supply). The reverse charge does not apply to supplies of goods or services made to private persons.

A non-established business may apply to register for VAT in Ireland at the following address:

Office of the Inspector of Taxes
IRDS
14/15 Upper O’Connell Street
Dublin 1
Ireland

The Irish VAT authorities may require a non-established business to provide security in order to register for VAT.

Tax Representatives

A non-established business is not required to appoint a tax representative in order to register for VAT in Ireland.

Cancellation of Registration

A taxable person that ceases to be eligible for VAT registration must cancel its registration.

A taxable person may also request cancellation of its registration if the level of its taxable turnover falls below the annual registration threshold, or if the taxable person previously opted for registration and no longer wishes to be registered.

Late Registration Penalties

A penalty of €1,520 is assessed for a failure to register for VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including supplies made at the zero-rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Input Tax Recovery by Taxable Persons*); however, an exception exists in respect of certain exempt services supplied outside the European Union. In Ireland, four rates of VAT currently apply – the standard rate at 21%, the reduced rates at 4.8% and 13.5% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate or zero rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Service

Postal services
Finance
Insurance
Short-term leasing of immovable property (for less than 10 years)
Medical services

Examples of Goods and Services Taxable at 0%

Books
Most foodstuffs (excluding confectionery)
Oral medicine
Exports
Children's clothing and footwear
Goods and services supplied to frequent exporters under the "VAT 13A Scheme"
Services supplied to foreign businesses under the "VAT 60A Procedure"

Examples of Goods and Services Taxable at 4.8%

Livestock
Greyhounds
Hire of horses

Examples of Goods and Services Taxable at 13.5%

Newspapers and magazines
Electricity
Repair, cleaning and maintenance services
Developed immovable property
Holiday accommodation
Building services

E. Time of Supply

The time when VAT becomes due is called the "time of supply" or "tax point." The time when VAT is due may be summarized as follows:

- For supplies made to nontaxable persons, the due date when the supply is completed; and
- For supplies made to taxable persons, the due date is when the invoice is issued or the date when the invoice should have been issued, whichever is earlier.

Prepayments

A prepayment is deemed to be a taxable supply, up to the value of the prepayment. The invoice for a prepayment must be issued within 15 days of the end of the month following the month when the prepayment is received.

A supplier that accounts for VAT on the invoice basis, accounts for VAT on a prepayment from a VAT-registered customer when the invoice is issued or when it should have been issued (that is, within 15 days of the end of the month when the prepayment is received), whichever is earlier.

A supplier that accounts for VAT on the cash receipts basis accounts for VAT on a prepayment from a VAT-registered customer when the payment is received.

The due date for a prepayment received from a non taxable person, is when the payment is received.

Intra-Community Acquisitions of Goods

The due date for intra-Community acquisitions of goods is the 15th day of the month following the month when the goods arrive or on receipt of the invoice if earlier.

Imported Goods

The due date for imported goods is the date of importation, or when the goods leave a duty suspension regime.

Cash Accounting

Some taxable persons are authorized to account for VAT on the basis of payments received, rather than invoices issued. This system is called "cash accounting." For taxable persons who use cash accounting, the liability to account for VAT arises on the date when payment is received for the supply. However, this does not change the basic tax point for the supply itself. The rate of VAT applicable to a supply of goods or services is the rate in force on the date of the supply, not the rate in force on the date when payment is received.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Ireland, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not made for business purposes (for example, goods acquired for private use by an entrepreneur). If expenditure relates to business and private use, the input tax must be apportioned; the amount related to business activities may be deducted.

In addition, input tax may not be deducted for some items of business expenditure, including the following items:

- The provision of food, drink, accommodation or other personal services for the taxable person, his agents or his employees;
- Entertainment expenses incurred by the taxable person, his agents or his employees;
- The purchase, hire or importation of passenger motor vehicles; and
- The purchase of petrol (gasoline). However, diesel is deductible.

The following table sets out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Hotel accommodation
 Business gifts if the value exceeds €20
 Lease, purchase and hire of passenger cars
 Petrol
 Business entertainment

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Car maintenance costs
 Attendance at conferences, seminars and training courses
 Lease, purchase, hire and maintenance of vans and trucks
 Diesel for business use
 Business use of mobile telephones
 Parking
 Gas and electricity

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. However, input tax related to making certain exempt supplies to non-EU customers (referred to as “qualifying activities”) is deductible. If a taxable person makes both exempt supplies and taxable supplies, it may not recover all the input tax incurred on goods or services acquired for both purposes. This situation is referred to as partial exemption.

Input tax that is directly related to making exempt supplies is not recoverable; input tax that directly relates to making taxable supplies is recoverable in full. For these purposes, the term “taxable supplies” includes zero-rated supplies and qualifying activities. Input tax that relates to taxable supplies and to exempt supplies is said to have a “dual use,” and must be apportioned between taxable supplies and exempt supplies. The percentage of “dual use” input tax that is attributable to making taxable supplies is recoverable. The recoverable percentage is rounded up to the nearest whole number. For example, a recovery percentage of 79.2% would be rounded up to 80%.

An Irish taxable person may use any calculation method to determine the recoverable percentage of “dual use” input tax, provided that the method chosen:

- Results in a proportion of tax deductible which correctly reflects the extent to which the dual-use inputs are used for the purposes of the person’s deductible supplies or activities; and
- It has due regard to the range of that person’s total supplies and activities.

Examples of possible apportionment methods include calculations based on the ratio of turnover from taxable and qualifying activities to turnover from exempt activities, the ratio of taxable transactions to exempt transactions, and the number of people involved in different activities.

The Revenue Commissioners may, however, require that a partially exempt taxable person use a different calculation method if, in their view, the method adopted does not adequately reflect how input tax was used by the business or the activities undertaken.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. In Ireland, no further adjustment is made to the amount of input tax recovered on the acquisition of capital goods, even if the ratio of taxable to exempt supplies changes in subsequent years.

Refunds

If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may claim a refund of the credit by submitting the VAT return for the period. If a taxable person normally receives refunds of VAT, it may request permission to submit monthly returns to improve cash flow.

Frequent Exporters – Zero Rating under the VAT 13A Scheme

A business that exports goods to persons outside the EU or to taxable persons in other Member States of the EU does not charge VAT on these transactions, but pays VAT on the goods and services it purchases and imports or acquires from other EU countries. A business that predominantly trades with other countries would therefore generally be in a net VAT repayment position in respect of each period which may have a negative impact on its cash flow position.

To help ease cash flow for businesses involved in international trade, exporters benefit from a special treatment for purchases. This provision is known as “the VAT 13A Scheme.” A qualifying exporter for these purposes is a taxable person that derives at least 75% of its turnover from exports of goods or from intra-Community supplies to persons registered for VAT in other Member States. Qualifying exporters may apply for certification of their entitlement to relief. Copies of the certification must be provided to suppliers who are obliged to supply most goods and services to qualifying exporters at the zero rate.

The VAT 13A zero rating applies to most domestic purchases of goods and services, to imports and to intra-Community acquisitions. The zero rating does not apply to the supply or hire of passenger cars, petrol (gasoline) for cars, food, drink, accommodation, non business purchases or any other expenses for which the input tax is not deductible.

G. Recovery of VAT by Non-Established Businesses

Ireland refunds VAT incurred by businesses that are not established in Ireland nor registered for VAT there. A non-established business is allowed to claim Irish VAT to the same extent as a VAT registered business.

For businesses established in the European Union, refunds are made under the terms of the EU 8th Directive; for businesses established outside the European Union, refunds are made under the terms of the EU 13th Directive. Ireland does not exclude claims by businesses established in any country.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes, see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following that in which the tax was incurred. However, late claims are generally accepted.

The claim must be for a period of not less than a calendar quarter, unless it is for the final part of a year, but for not longer than a calendar year. For claims covering a period of less than three months the minimum claim amount is €25. The repayment is made by means of a check issued in Euro or by direct deposit into an Irish bank account.

Applications for refunds of Irish VAT may be sent to the following address:

VAT (Unregistered) Repayments
Revenue Commissioners
Government Offices
Kilrush Road
Ennis
Co Clare
Ireland

Repayment Interest

Claims are normally paid within six months of submission of the claim. Interest is paid in respect of delayed refunds after the six-month period unless the delay is on the claimants behalf e.g. claimant does not provide all details requested or respond to queries on time.

Non-Established Businesses – Zero Rating under the VAT 60 A Procedure

A non-established business that receives taxable services from an Irish taxable person on a regular and continuous basis, may apply to have authorization to receive supplies at the zero rate provided that it would be entitled to recovery of this VAT under the EU 8th or 13th Directives. This zero-rating relief does not apply to the supply of goods.

Zero rating under this provision is known as “the VAT 60A Procedure.” This procedure improves cash flow by avoiding or reducing VAT repayment claims by non-established businesses.

Applications for zero-rating relief are made on Form VAT 60A. In practice, the supplier generally arranges applications. Businesses established in the European Union must submit a certificate of taxable status together with the application. Businesses established outside the European Union must submit a certificate from the tax authority or other competent authority in the country where they are established. The relief is valid for a period of two years, but may be renewed.

Applications for the relief (form VAT 60A) may be obtained from:

VAT (Unregistered) Repayments
Office of the Revenue Commissioners
Kilrush Road
Ennis
County Clare
Ireland

H. Invoicing

VAT Invoices and Credit Notes

An Irish taxable person must issue a VAT invoice for taxable supplies made to taxable customers, exempt persons, Departments of State, Local Authorities, and bodies established by statute. An Irish taxable person must also issue an invoice in respect of intra Community supplies to businesses in other Member States and in respect of sales to private individuals in other Member States under distance selling arrangements. A VAT invoice must be issued within 15 days of the end of the month when either the goods or services were supplied, or an advanced payment was received.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note must be used if the VAT payable on a supply is reduced because of a subsequent allowance or discount, unless the supplier and taxable customer agree that the VAT need not be adjusted. The credit note must be cross-referenced to the original VAT invoice and contain the same information.

Proof of Exports and Intra-Community Supplies

VAT is chargeable at the zero rate on the supply of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as zero rated, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Ireland. Acceptable proof includes the following documentation:

- For an export, a copy of the export document officially validated by customs showing the supplier as the exporter, together with shipping or air freight documents, and copies of commercial documentation (for example, orders, copy invoices, dispatch notes and delivery notes); and
- For an intra-Community supply, a range of commercial documentation, including purchase orders, transport documentation, proof of payments received from abroad and contracts. The EU VAT registration number of the customer must also be quoted on the sales invoice.

Foreign Currency Invoices

A VAT invoice may be issued in a foreign currency, but all values must be converted to Euros (€). The invoice amounts must be converted using the latest selling rate recorded by the Irish Central Bank at the time of supply.

It is possible to agree on a different exchange rate method with the Irish VAT authorities. If an alternative method is used, the taxable person must use it for all foreign currency transactions.

I. VAT Returns and Payment

VAT Returns

Irish VAT returns are generally submitted bimonthly. Returns and full payment of the VAT due must be made by the 19th day of the month following the return period.

A taxable person that receives regular repayments of VAT may request monthly returns.

Annual Return of Trading Details

All taxable persons must submit an annual return form of trading details, which outlines sales and purchases for the year, broken down by VAT rate.

Cash Accounting

Irish VAT is normally accounted for on an accruals basis, that is, on the basis of invoices issued and received. Some taxable persons are permitted to account for VAT on a cash basis, that is, on the basis of money paid and received. Irish taxable persons who may opt for cash accounting are:

- Taxable persons such as retailers and similar businesses that supply goods or services almost exclusively (at least 90% of turnover) to persons that are not registered for VAT; and
- Taxable persons whose annual turnover does not exceed €635,000.

Annual Accounting

Some taxable persons are permitted to submit VAT returns on an annual basis. This facility is granted at the discretion of the Irish VAT authorities. Taxable persons that submit annual returns must also complete the annual return of trading details.

A taxable person that is permitted to use this facility may align its annual VAT return date with its commercial accounting year.

A taxable person that is permitted to submit annual returns must make monthly VAT payments by direct debit throughout the year. Interest may be chargeable if the sum of the monthly payments made is less than 80% of the total VAT payable for the year.

Penalties

The basic penalty for the late submission of a VAT return is €1,520 per return.

However, if the Irish VAT authorities consider that a taxable person is negligent in relation to the non-payment of VAT, the penalty is increased. In the case of negligence, the person is liable to pay a penalty equivalent to the amount of VAT underpaid or overclaimed. In cases of fraud the penalty is increased to an amount equivalent to double the VAT underpaid or overclaimed. There is an additional fixed penalty of €125 in respect of individuals and €630 for corporate bodies. The penalty is doubled in cases of fraud.

Interest may also be levied on the amount of tax due at the rate of 0.0322% per day.

The Irish VAT authorities may mitigate penalties in certain circumstances.

J. EU Declarations

INTRASTAT

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

The threshold for INTRASTAT Arrivals for the calendar year 2005 is €191,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €635,000.

The INTRASTAT return period is monthly. The submission deadline is the 10th business day of the month following the return period. INTRASTAT returns may be filed on paper or electronically. Returns must be completed in Euros.

The penalty for the late or incorrect submission of an INTRASTAT return is €1,265.

EU Sales Lists

If an Irish taxable person makes intra-Community supplies, it must submit an EU Sales List (ESL). No threshold applies to ESLs. If no intra-Community supplies are made in a period, a “nil” statement must be submitted for that period.

ESLs are generally submitted quarterly. A taxable person may apply to submit ESLs monthly if it is more convenient to do so. The submission deadline is the last day of the month following the end of the return period.

The penalty for late submission and incorrect submission of an ESL is €1,520.

ITALY

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A. At a Glance

Name of the Tax

Value Added Tax (VAT)

Local Name

Imposta sul Valore Aggiunto
(IVA)

| | |
|---|---|
| Date Introduced | 1 January 1973 |
| European Union (EU) Member State | Yes |
| Administered by | The Ministry of Finance http://www.finanze.it |
| VAT Rates | |
| Standard | 20% |
| Reduced | 10% and 4% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | IT 0 4 1 9 6 7 6 0 0 1 3 |
| VAT Returns | Annual (all businesses) |
| VAT Payment Periods | Monthly Quarterly (if turnover in the previous year did not exceed €309,874 for supplies of goods or €516,457 for supplies of services) |
| Thresholds | |
| Registration | None |
| Deregistration | None |
| Distance Selling Intra-Community Acquisitions | €27,889 None |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Italy by a taxable person (see the chapter on the European Union);
- The intra-Community acquisition of goods from another EU Member State by a taxable person;
- Reverse charge services received by a taxable person in Italy (that is, services for which the recipient is liable for the VAT due; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes, Italy consists of the territory of the Republic of Italy excluding the communities of Livigno and Campione d'Italia and the Italian waters of Lake Lugano.

Special arrangements apply to goods imported into Italy from the Vatican City and the Republic of San Marino, which do not form part of the territory of the Republic of Italy.

C. Who Is Liable

The term “taxable person” refers to any legal entity or individual that makes supplies of goods or services in the course of a business, performs an artistic or professional activity in Italy or sets up a permanent establishment there.

The occasional supply of goods or services is not generally within the scope of Italian VAT. However, any supply of goods or services made by a corporate entity is regarded as a “business” activity, unless it is specifically treated as “nonbusiness” by the Italian VAT authorities.

VAT registration is also required for any business that makes intra-Community acquisitions in Italy or distance sales to Italian customers in excess of the thresholds (see the chapter on the European Union). The distance selling threshold for 2005 is €27,889.

Group Registration

A corporate body that controls one or more other companies may apply to form a VAT group. The controlling company must form part of the group, but it is not necessary for all the companies that it controls to be included.

An Italian VAT group is not treated as a single taxable person. The group members retain separate VAT numbers and VAT is chargeable on supplies made between group members. The use of a VAT group is effectively an administrative convenience aimed at offsetting VAT payments and repayments from group members.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Italy. A non-established business must register for Italian VAT if it makes any of the following supplies:

- Goods located in Italy at the time of supply, if supplied to non-taxable persons;
- Intra-Community acquisitions in Italy;
- Distance sales in excess of the annual threshold (see the chapter on the European Union); and
- Services taxable in Italy if supplied to nontaxable persons.

If a non-established business supplies goods or services to an Italian taxable person, but does not register for VAT, the Italian taxable person is liable to account for the VAT due, under reverse charge accounting, that is, the taxable customer must self assess for the tax due. However, a non-established taxable person that does not register may not recover any Italian VAT charged to it – unless the VAT is refundable under the terms of the EU 8th or 13th VAT Directive (see the chapter on the European Union).

A non-established business that makes or receives taxable supplies of goods or services in Italy may choose to register for Italian VAT, even if registration is not compulsory.

Tax Representatives

With effect from 31 August 2002, it is no longer necessary for all non-established businesses to appoint a tax representative in order to register for VAT. A foreign business that is established in another EU Member State or in any non-EU country that has suitable mutual assistance provisions with the European Union may register for VAT directly.

A foreign business established in another country must still appoint a VAT representative in order to register for VAT. The representative must be given a power of attorney to act on behalf of the non-established business.

Late Registration Penalties

Late registration for VAT may lead to the assessment of a number of penalties, depending on the errors committed. Penalties include the following:

- Failure to communicate the commencement of activities to the Italian VAT authorities – a penalty of between €516 and €2,066;
- Failure to issue and record invoices – a penalty of between 100% and 200% of the VAT not invoiced;
- Failure to make payments of VAT – a penalty of 30% of the payment not made, plus interest on the late payment; and
- Failure to maintain VAT records – a penalty of between €1,033 and €7,747.

D. VAT Rates

“Taxable supplies” are supplies of goods and services that are liable to VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). In addition, some supplies are “exempt with credit,” which means that no VAT is chargeable but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services, and supplies of intangible services supplied to another taxable person established in the European Union or to any recipient outside the European Union.

Currently three rates of VAT apply in Italy – the standard rate at 20% and two reduced rates at 4% and 10%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 4% | Examples of Goods and Services Taxable at 10% |
|--|---|--|
| Welfare supplies provided to employees | Books, newspapers and periodicals | Medicines |
| Education | Certain foodstuffs | Supplies of food and drink in restaurants, bars and hotels |
| Finance | Medical equipment | Supplies of electricity, methane and liquid petroleum gas, all for domestic use |
| Insurance | Supplies of food and drink in a staff restaurant | Electricity and gas for use by extraction enterprises and industrial enterprises |
| Postal services | | |
| Medical services | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The rules for when Italian VAT are due depend on the nature of the transaction.

Goods

For immovable property, the time of supply is the date when the agreement to transfer the property is signed. For movable property, the basic time of supply is the date of delivery or dispatch of the goods. The time of supply may be an earlier date if an invoice is issued, or if full or partial payment is received before the goods are supplied.

Services

The time of supply for services is the date of full or partial payment of the consideration. The time of supply may be earlier if an invoice is issued, before the services are supplied. No time of supply is created at the date of performance or completion of the service, in the absence of any payment or invoice.

Deposits and Prepayments

The receipt of a deposit or prepayment for a particular supply of goods or services creates a time of supply up to the amount paid.

Goods Sent on Approval or for Sale or Return

The time of supply for goods sent on approval or for sale or return is the date when the goods are accepted by the customer or 12 months after their removal, whichever is the earlier.

Intra-Community Supplies

The time of supply rules are the same for intra-Community supplies of goods as for domestic supplies.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the date of delivery of the goods in the territory of Italy, or the date of arrival at the final destination in Italy if the purchaser is responsible for arranging transport. The time of supply may be brought forward to an earlier date if an invoice is issued, or if the acquirer makes full or partial payment, before the goods are supplied.

Imported Goods

The time of the supply for imported goods is the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Italy, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Accommodation
 Meals
 Travel
 Business gifts costing more than €26
 90% of the VAT paid on the lease or purchase of a car used for business purposes
 Car maintenance cost and fuel
 Private expenditure
 50% of the VAT on a mobile phone costs
 Business entertainment and hospitality

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Attendance at conferences, exhibitions, training and seminars (except for any amount for meals and accommodation, separately invoiced)
 10% of the VAT incurred on the hire or lease of a car for business purposes
 Fuel and maintenance costs of trucks and vans

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If an Italian taxable person makes both exempt and taxable supplies it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes.

In Italy the standard partial exemption calculation method is based on the ratio of taxable turnover to total turnover. Recovery percentages are rounded up or down to the nearest whole number (for example, a recovery percentage of 77.5% is rounded down to 77%, whereas a recovery percentage of 77.6% is rounded up to 78%).

Capital Goods Scheme

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage changes during the adjustment period.

In Italy, the capital goods adjustment applies to the following assets for the number of years indicated:

- Land and buildings (adjusted for a period of 10 years); and
- Other capital assets as defined in the Italian civil code (adjusted for a period of five years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for land and buildings and $\frac{1}{5}$ for other capital assets). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed annually or quarterly, provided specific conditions are met. If the conditions for requesting a refund are not met, the input VAT credit may be carried forward to offset output VAT in the next VAT period.

Annual VAT Refund

An annual refund may be claimed if any of the following conditions is met:

- The average rate of VAT paid by the taxable person on purchases exceeds the average rate of VAT applied to its sales, increased by 10%;
- Exports, intra-Community supplies or international services make up more than 25% of the taxable person's total turnover;
- The VAT credit arises from either the purchase or import of depreciable assets or the purchase of goods and services for research and development activities, but the repayment is limited to that amount;
- The majority of the taxable person's business activities is conducted outside the territory subject to Italian VAT;
- The taxpayer is a VAT representative of a non-established business; or
- The taxable person has had an input tax credit in the annual VAT return for three following years. In this case, the repayment is limited to the lowest the credit amounts in the three years.

Quarterly VAT Refund

A quarterly refund may be claimed if any of the following conditions is met:

- The average VAT rate on purchases exceeds the average VAT rate applied on sales increased by 10%;
- Export or intra-Community supplies performed make up more than 25% of the taxable person's total turnover; or
- The VAT credit arises from the purchase or import of depreciable assets, which represents more than $\frac{2}{3}$ of the total amount of purchases subject to VAT. The repayment is limited to the amount of purchased depreciable assets.

For annual refund claims, the VAT credit must exceed €2,582, unless the taxable person is claiming the lowest credit amount in

a three-year period. For refunds exceeding €5,165, the claimant must provide a bank guarantee at the time the repayment is requested.

Since January 1998, taxable persons may use VAT refunds to offset other Italian tax liabilities. Currently, the offset may not exceed €516,457 a year.

Frequent Exporters

Although the Italian VAT law provides that repayments are made within three months of the deadline of the claim, for credit amounts higher than €516,457, long delays are often experienced. This delay may represent a severe cash flow problem for businesses involved in international trade, because they are frequently in a VAT repayment position. To ease the situation, the Italian VAT law provides that “frequent exporters” may purchase, import and acquire goods and services without payment of VAT.

To qualify as a “frequent exporter,” export supplies must equal 10% of a taxable person’s annual turnover. VAT-free purchases are limited to the value of the taxable person’s export supplies either in the previous calendar year or in the previous 12 months (at the option of the taxable person). The term “exports” includes, for these purposes, exports of goods and services and intra-Community supplies.

G. Recovery of VAT by Non-Established Businesses

Italy refunds VAT incurred by businesses that are neither established in Italy nor registered for Italian VAT. A non-established business is allowed to claim Italian VAT to the same extent as an Italian taxable person.

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive.

In accordance with the terms of the EU 13th Directive, refunds to non-EU businesses are made on the condition of “reciprocity,” which the Italian VAT authorities strictly impose. This means that VAT is refunded to businesses that are established in countries that make refunds of VAT or sales taxes to Italian businesses. Switzerland and Norway are included in this category. In practice, businesses from a large number of non-EU countries, including the United States, are excluded from receiving refunds. However, a business established in a country that is excluded from the EU 13th Directive refund scheme may be able to recover Italian input tax, by registering for Italian VAT through a VAT representative.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following that in which the tax was incurred. This deadline is firm and cannot be waived or extended.

Claims must be submitted in Italian and must be accompanied by the appropriate documentation (see the chapter on the European Union). The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25.

Applications for refunds of Italian VAT may be sent to the following address:

Centro Operativo di Pescara
Via Rio Sparto, 21
65129 Pescara
Italy

Repayment Interest

Italian VAT law states that payment of recoverable VAT must be made no later than six months after the date when the application is filed. However, in practice, the refund procedure takes two or three years. Interest accrues at a rate of 2.75% per annum with effect from the 180th day after the date the claim is filed.

H. Invoicing

VAT Invoices and Credit Notes

An Italian taxable person must generally provide a VAT invoice for all taxable and exempt supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must reflect a genuine mistake or overcharge or an agreed reduction in the value of the original supply and must be issued only in particular cases listed under Italian law. The document must be marked "credit note," it must be numbered and it must refer to the original VAT invoice.

Exports and Exempt Supplies

Invoices for exports, intra-Community supplies of goods and exempt supplies must indicate the article of Italian law that applies to the transaction, to support the fact that VAT has not been charged.

Proof of Exports and Intra-Community Supplies

Italian VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Italy. Acceptable proof includes the following documentation:

- For an export, a copy of the export documents or invoice officially validated by customs; and
- For an intra-Community supply, a range of commercial documentation, such as airway bills, consignment notes and transport documentation.

Self-Invoices for Reverse Charge Supplies

If an Italian taxable person receives a supply of goods or services that is subject to the reverse charge in Italy, it must issue a self-invoice, showing all the details of an Italian tax invoice and the correct VAT due. The self-invoice must be recorded in both the taxable person's purchase and sales ledgers.

Intra-Community Acquisitions

Invoices received for intra-Community acquisitions must be adapted to show all the information necessary for an Italian tax invoice, including the correct VAT due. The invoice must be entered into the taxable person's purchase and sales ledgers. If the supplier does not issue an invoice for the transaction, the Italian acquirer of the goods must self-invoice by the end of the second month following the month when the acquisition occurred. Invoices issued in a foreign currency must be converted to Euros (€).

Invoices Issued in a Foreign Currency

If an invoice is issued in a foreign currency, all values must be converted into Euros (€), using the official exchange rate (printed in financial newspapers or available from banks). The conversion must be done using the rate for the day the transaction took place or, if that rate is not available, the rate available for the preceding day that is closest to the transaction date.

I. VAT Returns and Payment**VAT Payments**

Italian taxable persons calculate VAT payments on a monthly or quarterly basis, depending on turnover, and pay the VAT. No monthly or quarterly VAT returns must be submitted. VAT may be paid on a quarterly basis if the turnover realized during the previous year (or anticipated for the first year of activity) does not exceed €309,874 for supplies of goods or €516,457 for supplies of services. Interest of 1% must be added to quarterly VAT payments.

Monthly payments are due by the 16th day of the month following the month for which VAT is due.

Quarterly payments are due by the 16th day of the second month following the quarter for which VAT is due.

VAT Returns

All Italian taxable persons must submit an annual VAT return each year. The VAT return period is the calendar year. The return must be filed by the last day of October following the VAT year. However, this deadline is subject to change.

With effect from 2003, Italian taxable persons must also submit an annual summary of supplies made. The annual summary is due by the last day of February following the VAT year.

Penalties

If the annual VAT return is submitted more than 90 days after the deadline, the penalty is 120% to 240% of the VAT due (as stated on the return). The minimum penalty is €258.

The penalty for the late payment of VAT is equal to 30% of the VAT paid late. In addition, interest is due, charged at a rate of 2.75% per annum.

J. EU Declarations

INTRASTAT

Italian taxable persons that trade with other EU Member States must complete statistical reports, known as INTRASTAT. Separate reports apply to intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches). No separate European Sales Listing report is used in Italy for intra-Community supplies (unlike in most other EU countries). INTRASTAT declarations must be filed in Euros.

INTRASTAT reports may be monthly, quarterly or annually, depending on the level of intra-Community trade (with effect from 1 January 2003, quarterly reports are used only for dispatches). Statistical information is required only from businesses that complete monthly reports. The following table sets out the INTRASTAT reporting periods and filing dates, based on turnover.

| INTRASTAT Arrivals | INTRASTAT Dispatches | Frequency of Filing | Filing Deadline |
|---------------------------|-----------------------------|----------------------------|---|
| Greater than €150,000 | Greater than €200,000 | Monthly | The 20th day of the month following the return period |
| €40,000 | Greater than | Quarterly | The 20th day of the month following the quarterly return period |
| Below €150,000 | Below €40,000 | Annual | 31 January of the year following the return period |

Penalties

INTRASTAT returns filed more than 90 days after the due date are subject to a penalty, ranging from €516 to €1,032. The same penalty applies to returns that are incorrectly filed. However, if the error is corrected after notification from the Italian VAT authorities, the penalty may be reduced or waived.

EU Sales Lists

In Italy, all information related to intra-Community transactions is reported using the INTRASTAT form. No separate EU Sales List is used.

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Consumption Tax |
| Local Name | Shouhizei |
| Date Introduced | 1 April 1989 |
| European Union (EU) Member State | No |
| Administered by | National Tax Agency Japan http://www.nta.go.jp |
| Consumption Tax Rates | |
| Standard | 5% |
| Other | Exempt (with input tax credit) and Nontaxable (without input tax credit) |
| Consumption Tax Return Periods | Monthly Quarterly Biannually Annually |
| Thresholds | |
| Registration | ¥10 million of taxable transactions |
| Recovery of Consumption Tax by Non-Established Businesses | Yes |

B. Scope of the Tax

Consumption Tax applies to the following transactions:

- The supply of goods or services made in Japan by a taxable person; and
- The importation of goods into Japan.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in Japan.

Under the “small business” exception, enterprises with taxable transactions not exceeding ¥10M in a “base period” are exempt from Consumption Tax. The base period for each Consumption Tax reporting year is the individual enterprise’s business year, two years prior to the current business year. However, a newly formed corporation with capital of ¥10 million or more is not eligible for the small business exemption from Consumption Tax for its first two fiscal years.

Voluntary Registration

A small business with taxable turnover of less than ¥10 million in its base period may voluntarily apply to become a taxable person.

Group Registration

Consumption Tax legislation does not allow closely related companies to register as a group.

Non-Established Businesses and Tax Representatives

A “non-established business” is a business that does not have a fixed establishment in Japan. A foreign or non-established business is obliged to register for Consumption Tax if it makes taxable supplies in Japan. If a foreign business is required to become a taxable person, it must appoint a resident tax representative to deal with its Consumption Tax obligations.

No reverse charge mechanism applies in Japan to supplies made by non-established businesses.

D. Consumption Tax Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to Consumption Tax. Consumption Tax is charged at the flat rate of 5%. No reduced rates apply.

The term “exempt supplies” is used for supplies of goods and services that are not taxed but the taxpayer may deduct any related input tax. Exempt supplies include exports of goods or services and international travel, transportation and communication services. Nontaxable supplies (with no right to input tax deduction) include: insurance, real estate, foreign exchange transactions and education (see Section F *Recovery of Consumption Tax by Taxable Persons*).

E. Time of Supply

The time when Consumption Tax becomes due is called the “time of supply” or “tax point.” Consumption tax is generally chargeable when ownership is transferred in goods or when a service is performed.

F. Recovery of Consumption Tax by Taxable Persons

A taxable person may recover input tax, which is Consumption Tax charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is Consumption Tax charged on supplies made.

Input tax includes Consumption Tax charged on goods and services supplied within Japan and Consumption Tax paid on imports of goods.

A valid tax invoice or customs document must generally accompany a claim for input tax.

A taxable person may deduct input tax in full, unless its nontaxable supplies exceed 5% of total supplies made.

Non-Deductible 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).

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Nonbusiness expenditure

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease, hire, maintenance and fuel for cars, vans and trucks

Attending conferences and seminars

Advertising

Accommodation

Mobile phones

Business gifts

Travel expenses

Business entertainment

Partial Exemption

If a taxable person's turnover from taxable supplies (including exports) is less than 95% of total turnover, it may not recover input tax in full. This situation is referred to as partial exemption. The amount of input tax that the taxable person may deduct may be calculated in one of two ways:

- Using a general pro rata method – The taxable person's taxable ratio (which is based on the value of taxable supplies made compared as a proportion of total supplies made) is applied to the total amount of input tax incurred; or
- Using a direct attribution method – The taxable person's input tax is allocated to taxable and nontaxable supplies made. Input tax directly related to taxable supplies is deductible in full, while input tax directly related to nontaxable supplies is not deductible. The general pro rata is applied to the remaining input tax that is not directly related to taxable or nontaxable supplies.

A business with annual sales of ¥50 million or less may use a simplified formula to calculate consumption tax payable. Under this system, the taxpayer calculates the credit for consumption

tax paid by multiplying the consumption tax on sales by a deemed purchase ratio. This ratio ranges from 50% to 90%, depending on the type of sales made. A taxpayer that elects to use the simplified accounting formula must do so for a minimum period of two years.

G. Recovery of Consumption Tax by Non-Established Businesses

Japan refunds Consumption Tax incurred by businesses that are not established in Japan. To obtain a refund, a non-established business must appoint a resident tax representative and elect to be treated as a taxable business.

H. Invoicing

Tax Invoices and Credit Notes

The Japanese Consumption Tax law does not explicitly require that a taxable person must provide a tax invoice for taxable supplies made to other taxable persons (or a credit note for adjustments).

Proof of Exports

Japanese Consumption Tax is not chargeable on supplies of exported goods. To qualify as Consumption Tax exempt, an export supply must be accompanied by official customs evidence stating that the goods have left Japan.

Foreign Currency Invoices

If a tax invoice is issued in a foreign currency, the values for Consumption Tax purposes may be converted to Japanese yen (¥) based on the official bank rate on the date of the transaction.

I. Consumption Tax Returns and Payment

Annual Consumption Tax Returns

Taxable persons must file Consumption Tax returns annually. An individual entrepreneur must file its Consumption Tax return and pay the tax due by 31 March in the year following the end of the calendar year. A corporation must file its annual Consumption Tax return and pay the tax due within two months after its fiscal year-end.

Interim Consumption Tax Returns

Depending on the previous year's tax liability, a taxable person may be required to file interim Consumption Tax returns and pay tax during the year.

An interim tax return is required for the first six months of the tax year if the estimated tax due exceeds ¥480,000 – based on the previous year's tax payments. Interim payments are required in May, August and November (for a fiscal year ending in December) if the estimated tax due for the year exceeds ¥4 million. In addition, if the estimated tax due for the year exceeds ¥60 million, interim payments are required monthly.

Penalties

Interest is applied to late payments of Consumption Tax. The rate of interest is revised annually. For the year 2004, the interest rate is 4.1%.

A penalty is charged in the following amounts if the annual Consumption Tax return is not filed by the due date:

- 5% if the taxable person makes a voluntary disclosure;
- 15% if the error is found as a result of a tax audit; and
- 40% if fraud or tax evasion is involved.

A penalty is charged in the following amounts if the amount of tax declared in the annual Consumption Tax return is understated:

- 0% if the taxable person makes a voluntary disclosure;
- 10% or 15% (of the excess portion of additional tax over ¥500,000 or the original amount, whichever is greater) if the error is found as a result of a tax audit; and
- 35% if fraud or tax evasion is involved.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 January 1990 |
| European Union (EU) Member State | No |
| Member of the South Africa Customs Union | No |
| Administered by | Kenya Revenue Authority www.revenue.go.ke |
| VAT Rates | |
| Standard | 16% |
| Reduced | 14% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 0111111A |

| | |
|---|---|
| VAT Return Periods | Monthly |
| Registration Threshold | 3 million KSH (in 12 months) 2.4 million KSH (in 9 months) 1.8 million KSH (in 6 months) 1.2 million KSH (in 3 months) |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods and services in Kenya by a taxable person;
- Reverse charge services received by a taxable person in Kenya; and
- The importation of goods from outside Kenya, irrespective of the status of the importer (except where the importer is listed in Part A of the Eighth Schedule to the VAT Act as zero rated or the importer has been granted VAT exemption).

C. Who Is Liable

Any registered person who makes supplies of taxable goods and services in Kenya in the course of a business is liable for VAT.

The VAT registration threshold depends on the level of the turnover of a business attained or expects to attain as follows:

- 3 million KSH turnover in a period of 12 months;
- 2.4 million KSH turnover in a period of 9 months;
- 1.8 million KSH turnover in a period of 6 months; and
- 1.2 million KSH turnover in a period of 3 months.

However, suppliers of certain “designated” goods and services must register for VAT irrespective of their level of turnover. Businesses and supplies considered to be designated goods and services include:

- Dealers in jewelry;
- Dealers in timber;
- Dealers in pre-recorded music;
- Dealers in household or domestic electric or electronic apparatus and appliances;
- Saw millers;
- Dealers in motor vehicle parts and accessories;
- Any person who sells four or more motor vehicles in any one year;
- Accountancy services including any type of auditing, book-keeping and similar services;
- The provision of reports, advice, information or similar technical services in the following areas:
 - Management, financial and related consultancy services,
 - Recruitment, staffing and training,
 - Market research,
 - Public relations,
 - Advertising,
 - Actuarial services, and
 - Material testing services, excluding medical, dental or Agricultural testing services.
- Computer services of any description, including the provision of bureau facilities, systems analysis and design, software

development and training, but excluding training offered to students in the furtherance of education and which is not part of user training or other business training;

- Legal and arbitration services;
- Services supplied by architects including landscape architects, draughtsmen and interior designers;
- Services provided by land and building surveyors, quantity surveyors, insurance assessors, fire and marine surveyors, loss adjusters or similar services;
- Services provided by consulting engineers;
- Services supplied by auctioneers, estate agents and valuers;
- Services provided by agents, excluding insurance agents;
- Services supplied by brokers, excluding services supplied by insurance brokers, stock exchange brokers and tea and coffee brokers dealing exclusively in tea and coffee for export;
- Services supplied by security and investigation organizations including rental of security equipment and installation;
- Advertising services, including the placement of notices and announcements in the print and electronic media and services connected therewith or incidental thereto, but excluding death and funeral notices and announcements;
- Telecommunication services including rental of telecommunication equipment and installation services;
- Services supplied by contractors;
- Services supplied by clearing and forwarding agents; and
- Secretarial services supplied by Certified Public Secretaries.

A taxable person must notify the Kenyan VAT authorities of its liability to register for VAT within 30 days of becoming liable.

Group Registration

The Kenyan VAT Act does not permit group registration; grouping is permitted only under special circumstances.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in Kenya. A foreign business is not obliged to register for VAT unless it has a permanent establishment in Kenya. A permanent establishment of a foreign business is obliged to register for VAT if it makes taxable supplies of goods or services. For supplies made by other non-established businesses, no registration obligation exists. Instead, the person importing goods or services from a non resident has an obligation to pay the Kenyan VAT due.

Late Registration Penalties

Late registration by traders who are subject to the turnover threshold is liable to a default penalty of 20,000 KSH.

Late registration by traders who are not subject to the turnover threshold is liable to a default penalty of 100,000 KSH.

Penalties apply to a range of other VAT offenses (see Section I *VAT Returns and Payment*).

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The

term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Persons that make exempt supplies are not entitled to input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Kenya, three rates of VAT currently apply – the standard rate at 16%, a reduced rate at 14% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the reduced rate, the zero rate or an exemption.

The following table lists examples of exempt and zero-rated supplies of goods and services. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 0% | Examples of Goods and Services Taxable at 14% |
|---|--|--|
| Unprocessed agricultural products | Export of goods Export of taxable services | Hotel and restaurant services |
| Airplanes and other aircraft | Goods and services supplied to export processing zones | |
| Medical services | Coffee and tea for export to coffee and tea auction | |
| Agricultural, animal husbandry and horticultural services | Medicaments | |
| Transportation of passengers excluding for hire | Seeds Vitamins Fertilizers Agricultural machinery | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Kenya, the tax point is the earliest of the following events:

- The goods or services are supplied;
- An invoice is issued; and
- Payment is received for all or part of the supply.

Other tax points apply in a variety of specific situations.

Imports

The time of the supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is claimed by deducting it from output tax, which is VAT charged on supplies made. Taxable persons should claim input tax within one year of incurring the expense.

Input tax includes VAT charged on goods and services purchased within Kenya and VAT paid on imports of goods and services.

Non-Deductible Input Tax

VAT 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 on certain business expenses.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is for purposes of making a taxable supply, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase and hire of passenger cars
Business gifts
Business entertainment
Taxis
Accommodation
Furnishings and decorative items
Fuel for vehicles

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire and maintenance of commercial motor vehicles
Advertising
Parking
Mobile phones

Partial Exemption

VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies cannot recover VAT tax in full. This situation is referred to as “partial exemption.”

Under Kenyan VAT law, if a taxable person supplies both taxable and exempt goods and services, only input tax attributable to taxable supplies may be recovered. The attribution requires the approval of the Commissioner although the two methods may be used without prior approval. The first method is a simple pro rata, based on the value of taxable supplies compared with total supplies made. The second method is based on direct attribution of VAT incurred to supplies made as follows:

- Input tax directly attributable to taxable goods purchased and sold in the same state is deductible in full;
- Input tax directly attributable to exempt outputs may not be deducted at all; and
- Input tax that is not directly attributable to taxable goods purchased and sold in the same state or to exempt outputs is recoverable in part. The recoverable percentage is calculated using a simple pro rata based on the value of taxable and exempt supplies made.

If the input tax attributable to exempt supplies is less than 5% of the total input tax, then the input tax may be claimed in full.

Refunds

A taxable person may claim for refund of input tax in excess of output tax under the following circumstances:

- If the excess arises out of making zero rated supplies; and
- If a company makes capital investments and the deductible input tax exceeds 1 million KSH.

The claim for refund of VAT must be made within a period of 12 months from the date the tax became payable. The

period may be extended if the tax authorities allow, but not for a period longer than 24 months. In practice the tax authorities are reluctant to approve claims lodged after 12 months.

Claims in excess of 1 million KSH must be accompanied by an auditors' certificate. However, in practice, the VAT Department requires an auditors' certificate for refunds in excess of 100,000 KSH to facilitate speedy processing.

The Minister of Finance may also occasionally publish an order in the Official Gazette to waive, wholly or in part, tax payable in respect of any taxable goods or taxable services if he is satisfied that it is in public interest to do so.

Repayment are made where taxable goods have been manufactured in or imported into Kenya and tax is paid in error or it is in public interest to do so. A claim for such a repayment should be made within a period of one year from the date the tax was paid.

G. Recovery of VAT by NonResidents

Kenya does not refund VAT incurred by a foreign business unless it has a permanent establishment in Kenya and is registered for VAT there.

H. Invoicing

VAT Invoices and Credit Notes

A supplier of taxable goods and services is required to issue a tax invoice to the purchaser at the time of supply or within 14 days. Simplified tax invoices may be used if the sales to any one person in a day do not exceed 500 KSH.

A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes should show the same information as a tax invoice.

Proof of Exports

Goods exported from Kenya are zero-rated. However, to qualify for a zero rating, exports must be supported by evidence that proves the goods left Kenya. Suitable evidence includes the following documents:

- A sales invoice;
- A bill of lading, road manifest or airway bill;
- A certified export entry (Form C63); and
- In the case of sugar and other excisable goods, a certificate of exportation signed by the Commissioner of Customs and Excise.

Foreign Currency Invoices

Foreign currency invoices are dealt with in the same way as invoices in local currency. The tax authorities do not require a standard exchange rate to be used to convert the value of foreign invoices into Kenyan shillings (KSH). In practice, they accept the rate used by the taxable person, provided the rate used is within prevailing market rates of exchange.

I. VAT Returns and Payment

VAT Returns

The VAT tax period is one month. Returns must be filed by the 20th day after the end of the tax period. Payment is due in full by the same date. A “nil” return must be filed if no VAT is payable (either because the taxable person has made no supplies or because input tax exceeds output tax in the period).

If the normal submission date falls on a public holiday, or a weekend, the VAT return must be submitted on the last working day prior to that day.

If the return is sent by post, it is deemed to have been received on the post mark date on the envelope, provided that the return is sent by the 15th day of the month following the return period.

Penalties

Late submission of a return is subject to a penalty of 10,000 KSH or 5% of tax due whichever is higher (with effect from 10 June 2004), plus late payment interest charged at a rate of 2% per month, compounded. Other penalties for VAT offenses include:

- Failure to comply with notice to pay money owed to a taxable person – a penalty of 15,000 KSH or a maximum sentence of 6 months imprisonment;
- Failure to produce books or information as required by an authorized agent – a penalty of 15,000 KSH or a maximum sentence of 6 months imprisonment;
- Making false statements, producing false documents or providing false information – a penalty of; 400,000 KSH or double the amount of tax evaded;
- Failure to display registration certificate – a default penalty of 20,000 KSH and a fine of up to 200,000 KSH or a maximum sentence of 2 years imprisonment;
- Late application for registration – a penalty of 20,000 KSH or a maximum sentence of 6 months imprisonment;
- Enforced registration – a penalty of at least 100,000 KSH but not exceeding 200,000 KSH;
- Failure to issue a tax invoice – a penalty of 10,000 KSH;
- Failure to keep proper books – a penalty of between 10,000 KSH and 200,000 KSH; and
- General penalty for other offenses – a maximum fine of 500,000 KSH or a maximum sentence of 3 years imprisonment.

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| | |
|---|---|
| Name of the tax | Value Added Tax (VAT) |
| Local Name | Pievienotas vertibas nodoklis |
| Date Introduced | 1 January 1992 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered by | The State Revenue Service http://www.vid.gov.lv |
| VAT Rates | |
| Standard | 18% |
| Reduced | 5% |
| Other | Zero Rated and Exempt |
| VAT Number Format | LV12345678901 |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | Lats 10,000 (businesses established in Latvia) First taxable supply (businesses established elsewhere) |
| Distance selling | Lats 24,000 |
| Intra-Community acquisitions | Lats 7,000 |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services in Latvia by a taxable person;
- Own consumption of goods and services;
- Reverse charge services received by a Latvian taxable person;
- The intra-Community acquisition of goods in Latvia from another EU Member State (see the chapter on the European Union);
- Distance sales of goods in Latvia made to private persons (see the chapter on the European Union); and
- The importation of goods into Latvia, irrespective of the status of the importer.

C. Who Is Liable

A taxable person is a business entity or individual that makes taxable supplies of goods or services, in the course of a business, in Latvia. This rule applies to a branch or permanent establishment of a foreign business entity.

The VAT registration threshold is turnover in excess of lats 10,000 in the preceding 12 months. A business established in Latvia whose turnover has not exceeded lats 10,000 in the preceding 12 months is not obliged to register for VAT. If a

business exceeds this threshold, it must register for VAT within 30 days.

Special rules apply to “non-established” businesses.

Group Registration

VAT group registration is not allowed under the Latvian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Latvia. A non-established business must register for VAT if it makes taxable supplies of goods or services in Latvia. If a “non-established business” that is not registered for VAT purposes in Latvia has supplied goods or services in Latvia, the liability to account for “reverse charge” VAT transfers to recipient of the goods or services in Latvia (if the recipient is a VAT registered person). An entity registered for VAT in another EU member state is not obliged to register for supplies made to Latvian taxable persons if the “reverse charge” applies (that is, the recipient of the service must account for the tax on behalf of the supplier). The reverse charge does not apply to supplies made to private persons.

To register for VAT, a non-established business must submit the following documents to the State Revenue Service:

- Filled application form given by the State Revenue Service of Latvia;
- Confirmation of the address of the business in Latvia;
- A passport or a driving license of the person who submits the documents to the State Revenue Service; and
- If the application is submitted by an authorized person, the power of attorney must also be submitted to the State Revenue Service.

Late Registration Penalties

No specific penalty applies to late registration. However, a range of penalties may be assessed if VAT is not paid or if VAT returns are not filed as a result of a late registration.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and which do not give rise to a right of input tax deduction.

In Latvia, currently three rates of VAT apply – the standard rate at 18%, the reduced rate at 5% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the reduced rate, the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Supplies of Goods and Services Taxable at 0% | Examples of Supplies of Goods and Services Taxable at 5% |
|--|---|---|
| Real estate transactions | Exports of goods and related services | Veterinary medicines, products and services |
| Financial services | Exported services | Information for mass distribution (except erotic material or pornography) |
| Insurance and reinsurance services | International transport | Specialist products for infants |
| Health and welfare services | Tourism services | Hotel accommodation |
| Education and cultural services | | Water and sewage services |
| Postal services | | Medicines and medical devices |
| Betting and gaming | | Household waste collection and disposal services |
| | | Books |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods and services is:

- When the goods are delivered or service is performed; and
- When the VAT invoice is issued; or
- When the payment is received, if this is before supply of goods and services has been made.

A VAT invoice should be issued within 15 days after services are rendered or goods are supplied.

Imported Goods

The time of supply for imported goods is the date of importation.

Import VAT paid into the state budget may be deducted as input VAT in VAT returns for the period when the goods are released for free circulation.

F. Recovery of VAT by Taxable Persons

A taxable person may deduct as input tax, VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Latvia, VAT paid on imports of goods and VAT self-assessed for reverse charge services received from outside Latvia.

The amount of the VAT reclaimed must be indicated in a valid VAT invoice.

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

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Hotel accommodation
 Non-business expenditure
 Business gifts
 Taxi services
 Non-business expenditure
 Business and employee entertainment

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease and hire of cars, vans and trucks
 Fuel for cars, vans and trucks
 Parking
 Mobile phones
 Conferences
 Advertising
 Books
 Business use of home telephone
 Taxis

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Latvian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption.

The amount of input tax that may be deducted by a partially exempt business is calculated based on the percentage of taxable supplies to total supplies made each month. The recovery percentage is generally calculated to two decimal places. The monthly calculation is adjusted annually.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. At the end of a taxation period (month) the credit may be used to offset other tax liabilities. A maximum of 18% of a taxable person's total taxable transactions may be offset. The remainder of the credit is repaid after the end of the tax year. The State Revenue Service generally repays the credit within 30 days after the submission of an application for refund.

The VAT authorities may refuse a repayment in certain circumstances that are detailed in the Latvian VAT law.

G. Recovery of VAT by Non-Established Businesses

The following refund procedure was introduced in Latvia with effect from 1 May 2004, and applies to VAT paid in Latvia for

services received, goods purchased and goods imported with effect from that date.

In order to apply for VAT refund from Latvia the foreign claimant should obtain all the following documents:

- A certificate of VAT Registration, issued by local tax authorities certifying that the foreign company is registered for VAT purposes in the respective EU Member state or in the third country;
- The valid original invoices;
- Documents certifying the payments of the respective invoices;
- Original customs declarations (if the persons from third countries apply for VAT refund from Latvia);
- An original Power of Attorney (if the foreign entity authorizes the another entity to assist in performing VAT refund procedures in Latvia); and
- The application form.

The application form may be completed in Latvian or in English.

Claims may be made for the following periods:

- One calendar year or a period of less than 3 months (if within the last 3 months of the calendar year that is the period from 1 October to 31 December); and
- A period of not less than 3 calendar months and not longer than one calendar year.

A claim for a complete calendar year should exceed 20 LVL (approximately €30), and for a claim for a period of less than a calendar year but longer than 3 months should exceed 135 LVL (approximately €205).

The documents should be submitted to the State Revenue Service within the following time limits:

- For a claim of one calendar year or a period less than 3 months: within 6 months after the end of the tax year (that is by 30 June of the following year); and
- For a claim for a period less than 3 calendar months and not longer than one calendar year: within 3 months after the end of the period indicated in the application form.

In practice, VAT is refunded within 4 months from the date of the submission of the relevant claim documents. This period may be prolonged if the tax authorities ask for additional information.

H. Invoicing

VAT Invoices and Credit Notes

A Latvian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The document should be clearly marked “credit note” and it should refer to the original invoice. A credit note should also indicate the reason for the correction and any new items arising from it.

Proof of Exports

The zero VAT rate applies to exports of goods. An export supply must be accompanied by evidence confirming that the goods

have left Latvia. Suitable evidence includes the stamped customs exportation documentation.

Invoices Issued in a Foreign Currency

If an invoice is issued in a foreign currency, the taxable value must be converted to Latvian lats. The conversion must be done using the official exchange rate quoted by the National Bank of Latvia on the date of the supply.

I. VAT Returns and Payment

VAT Returns

Latvian taxable persons must file VAT returns monthly. Monthly VAT returns must be filed by the 15th day of the month following the end of the tax period. Payment in full is required on the same date. VAT return liabilities must be paid in Latvian lats.

If the annual amount of VAT payable is less than lats 10,000, the period for the submission of a VAT return may be extended to three months or six months.

Penalties

The penalty for the late payment of VAT is interest calculated at 0.05% for every day late as well as the refinancing rate of the Bank of Latvia of 4% per year.

Other offenses may also give rise to assessment of a penalty of 100% of the tax underdeclared.

J. EU Declarations

INTRASTAT

A 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 calendar year 2005 is €57,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €78,000.

The INTRASTAT return period is either monthly or quarterly, depending on whether the taxable person submits monthly or quarterly VAT returns. The submission deadline is the same as for the VAT return, that is, the 15th day of the month following the return period.

A penalty may be imposed for late submission or for missing or inaccurate declarations.

EU Sales Lists

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

ESLs must be submitted on a calendar quarterly basis by the 15th day following the end of the quarter.

Penalties may be imposed for late, missing and inaccurate ESLs.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 February 2002 |
| European Union (EU) Member State | No |
| Administered by | Ministry of Finance http://www.finance.gov.lb |
| VAT Rates | |
| Standard | 10% |
| Other | Exempt and Zero-Rated |
| VAT Number Format | The Tax Identification Number (TIN), followed by the VAT Number (indicating whether the taxable person is an exporter, for example, 1473-601) |
| VAT Return Periods | Quarterly |
| Thresholds | LL 225 million (on or after 1 January 2004) LL 150 million (on or after 1 January 2005) |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Lebanon by a taxable person;

- The importation of services by any person resident in Lebanon; and
- The importation of goods into Lebanon, irrespective of the status of the importer.

C. Who Is Liable

A “taxable person” is any entity or individual that makes taxable supplies of goods or services in the course of doing business in Lebanon, in excess of the registration threshold. This definition applies to a permanent establishment of a foreign business in Lebanon. The deadline for registering is two months from the last day of the quarter when the liability to register arose.

With effect from 1 January 2004, the VAT registration threshold is annual turnover of LL 225 million in the preceding four quarters.

With effect from 1 January 2005, the VAT registration threshold is annual turnover of LL 150 million in the preceding four quarters.

Voluntary Registration

Any person that commences or performs an independent economic activity that is liable to tax, or that is exempt with the right of deduction in accordance with the provisions of the VAT law, may voluntarily apply to become a taxable person, irrespective of the person’s level of turnover.

Group Registration

The Lebanese VAT legislation does not allow VAT group registration. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Lebanon. A non-established business is obliged to register for VAT if it makes taxable supplies in Lebanon.

Tax Representatives

A non-established business must appoint a tax representative resident in Lebanon before it makes any supplies of goods or services there, irrespective of its expected level of turnover. The tax representative is jointly and severally responsible for the payment of all VAT liabilities and penalties with the non-established business it represents. The tax representative is solely responsible for complying with all the other provisions of the Lebanese VAT law.

If a Lebanese resident receives a taxable supply of goods or services from a non-established supplier that has not appointed a tax representative in Lebanon, the Lebanese resident is liable to pay VAT and any penalties due to the VAT authorities. However, the Lebanese resident may try to recover these amounts from the non-established supplier.

Deregistration

A taxable person that ceases to carry on business in Lebanon must cease to be registered. A taxable person whose turnover falls below the compulsory registration limit may also deregister.

A taxable person that is registered voluntarily may request deregistration if its annual turnover does not exceed the compulsory VAT registration threshold.

Late Registration Penalties

Failure to register for VAT is subject to payment of the amount of the net tax due. The net tax due is assessed on the basis of the margin of the lump sum profit according to the rules for assessing the income tax on taxable operations. The penalty period commences from the date when the person was liable to register and ends on the date when the person becomes registered for VAT. In addition, a penalty is levied equivalent to 10% of the amount of net tax due for each taxable period in the penalty period, with a minimum penalty for each taxable period one of LL 1 million.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services not liable to tax which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Lebanon, two rates of VAT currently apply – the standard rate at 10% and the zero rate (0%). The 10% standard rate of VAT applies to all supplies of goods and services, unless a specific provision allows the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Postal services and stamps
 Education
 Insurance
 Financial services
 Transfer of real estate
 Medical services and equipment
 Precious metals, and precious and semi-precious stones
 Betting and gaming
 Transport of persons
 Agricultural activities and products, including livestock, seeds, animal feed and pesticides
 Books, newspapers and magazines
 Basic foodstuffs and baby food

Examples of Goods and Services Taxable at 0%

Exported goods
 Exported services
 International transport

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The tax point is the earliest of the following events:

- When the goods are delivered or the services are performed;
- When the consideration is paid if this occurs before the goods are delivered or services are performed; and
- When the invoice is issued if this occurs before the goods are delivered or services are performed.

Imported Goods

The time of supply for imported goods is when the liability to pay customs duties arises, that is, either on the date of importation or when the goods leave a duty suspension regime.

Imported Services

Any Lebanese resident who uses a service within the territory of Lebanon that is acquired from abroad must account for VAT on the service and pay VAT due to the VAT authorities. The tax point is when the service is received and the consideration is paid.

F. Recovery of VAT by Taxable Persons

A VAT payer may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Lebanon and VAT paid on imports.

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business entertainment
Nonbusiness expenditure

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Accommodation
Advertising
Business gifts
Conferences
Purchase, lease and hire of cars, vans and trucks
Business use of home telephone
Mobile phones
Taxis

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Lebanese taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as a partial exemption. Zero-rated supplies (sometimes referred to as “exempt with credit” supplies) are treated as taxable supplies for these purposes.

A taxable person that makes both taxable and exempt supplies may generally recover input tax that is related to taxable supplies only. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible. The remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned. The apportionment may be calculated based on the value of taxable supplies made compared with total turnover.

However, certain VAT exempt entities, including hospitals, educational institutions and nonprofit organizations, known as “Article 59 entities,” are subject to a special VAT recovery regime. Article 59 entities use fixed recovery percentages for recovering input VAT, depending on the type of expenditure. The fixed percentages apply as follows:

- 100% recovery is allowed for purchases of fixed assets; and
- 100% recovery is allowed for current expenses.

Refunds

If the amount of VAT recoverable in a month exceeds the amount of VAT payable, the taxable person earns a VAT credit. The VAT credit is generally carried forward to offset output tax in the following VAT period. A refund of any remaining VAT credit may be claimed at the end of the VAT year. However, exporters may claim a refund of the VAT credit at the end of each quarterly VAT period.

The VAT authorities must make a refund within three months from the date of receiving the claim. The VAT authorities pay interest on late refund payments at a rate of 9% per annum, with effect from the end of the 4th month following the date when the claim was submitted.

G. Recovery of VAT by Non-Established Businesses

The Lebanese VAT authorities do not refund VAT incurred by businesses that are neither established nor registered for VAT in Lebanon.

H. Invoicing

VAT Invoices and Credit and Debit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made to another taxable person and for exports. Taxable persons that supply goods and services mainly to retail customers may issue cash receipts instead of full tax invoices.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. The value of the supply may be reduced if a supply is cancelled, goods are returned (in full or in part) or the contractual price is reduced. The amount

of VAT credited must be separately itemized in the credit note. The credit note must be cross-referenced to the original VAT invoice and must contain generally the same information.

Proof of Exports

Lebanese VAT is not chargeable on supplies of exported goods, which are zero-rated. However, to qualify as VAT-free, an export supply must be accompanied by official customs evidence and port clearance documents, stating that the goods have left Lebanon.

Invoices Issued in a Foreign Currency

If an invoice is issued in a foreign currency, all values for VAT purposes must be converted to Lebanese pounds (LL) using a published exchange rate for the date of the transaction.

I. VAT Returns and Payment

VAT Returns

Lebanese VAT returns are submitted for quarterly periods. VAT returns must be filed within 20 days of the end of the tax period. Payment in full is required at the same time. VAT liabilities must be paid in Lebanese pounds (LL).

Penalties

A penalty is charged for late submission of a VAT return at the rate of 10% of the tax due for each month or part of a month that the return is late. The minimum penalty is LL 500,000 a month and the maximum penalty is twice the tax due. For these purposes, a fraction of a month is considered as a whole month.

A penalty is charged for late payment of tax at a rate of 3% per month or part of a month that the tax is unpaid.

The penalty for fraudulently claiming a VAT refund is twice the amount of tax claimed. Criminal sanctions may also apply.

Penalties apply to a range of other VAT errors and offenses, including submitting incorrect tax returns, issuing incorrect VAT invoices and failure to retain documents.

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Pridòtinòs Vertòs Mokestis |
| Date Introduced | 1 April 1994 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered by | The Ministry of Finance http://www.finmin.lt State Tax Inspectorate http://www.vmi.lt |
| VAT Rates | |
| Standard | 18% |
| Reduced | 9% and 5% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | LT123456789 LT123456789012 |
| VAT Return Periods | Monthly Semi-annual (natural persons – may be changed to monthly, optional for legal persons with turnover not exceeding 200,000 Lt in the previous year) Quarterly (for non-EU persons that supply electronic services to non-taxable persons) Other (for members of international groups – but may not be longer than 60 days; and the entity's fiscal year must coincide with the start and end of the calendar year). |
| Thresholds | |
| Registration | Revenue of 100,000 Lt in the previous 12 months for businesses established in Lithuania First taxable supply for businesses established elsewhere (unless the reverse charge applies) |
| Distance selling | 125,000 Lt (€35,000) |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services in Lithuania effected for consideration by a taxable person performing economic activities;
- The intra-Community acquisition of goods from another Member State (see the chapter on the European Union);
- The importation of goods into Lithuania – subject to import VAT; and
- Certain other cases linked to the international traffic of goods (for example, the supply of goods that are intended to be produced to customs and placed in temporary storage; the supply

of goods that are intended to be placed in a free zone or in a free warehouse; and the supply of goods that are intended to be placed under customs warehousing arrangements or inward processing arrangements).

C. Who Is Liable

A taxable person is a business entity or individual established in Lithuania or elsewhere that performs economic activities in the course of its business in Lithuania.

The VAT registration threshold for Lithuanian entities is turnover in excess of Lt 100,000 in the preceding 12 months. If the total turnover of all the entities controlled by a single entity or by an individual exceeds Lt 100,000, all the entities are required to register for VAT, even if the turnover of each entity separately does not exceed the threshold.

Special rules apply to foreign or “non-established” businesses that have no fixed establishment in Lithuania.

Voluntary Registration

A business established in Lithuania whose turnover does not exceed the registration threshold or a person that acquires or plans to acquire goods from another Member State (except for new means of transport or excise goods) may register for VAT voluntarily.

Group Registration

VAT group registration is not allowed under the Lithuanian VAT law. Entities that are legally related must register for VAT individually.

Non-Established Businesses and Tax Representatives

A “non-established business” is a business that has no fixed establishment in the territory of Lithuania. A non-established business must register for VAT in Lithuania if it makes taxable supplies of goods or services there. No VAT registration threshold applies to supplies made by foreign “non-established” business entities that is, registration is obligatory for any taxable supply made in Lithuania, unless the reverse charge applies, or the supply is outside the scope of VAT or is exempt. A non-established business must register for VAT through a fixed establishment in Lithuania or appoint a fiscal representative (tax representative). The requirement to appoint a fiscal representative does not apply to non-established businesses that are established in other EU Member States.

An EU taxable person must register for VAT if it makes distance sales of goods to customers in Lithuania in excess of 125,000 Lt (approximately €35,000) in a year.

Foreign entities are not obliged to register for VAT if the transactions they perform are exempt, outside the scope of VAT or zero-rated (taxable at 0%). However, in some cases, even though the zero rate of VAT applies, VAT registration is required (for example, for the supply of goods which are intended to be produced to customs and placed in temporary storage, supply of goods which are intended to be placed in a free zone or in a free warehouse, supply of goods which are intended to be placed under customs

warehousing arrangements or inward processing arrangements, services linked to these supplies, supplies of goods to another Member State which are transported to that country, supplies of new vehicles that are transported to another Member State).

Taxable persons established outside the Community that supply electronic services (and taxable persons that supply electronic services through a subsidiary established outside the Community) to non-taxable persons established in Lithuania must register for VAT (that is, if the service provider is not yet registered in another Member State).

Reverse Charge

A non-established business that makes taxable supplies in Lithuania is not obliged to register for VAT if the reverse charge rule applies to all its transactions. Under the reverse charge rule, the Lithuanian customer is responsible for the calculation and payment of VAT. Application of the reverse charge is compulsory for the acquirer in certain cases of services or goods supplied in Lithuania, examples include:

- Consulting, insurance, advertising, financial, insurance, supply of stuff and other certain services;
- Rental of means of transport from non-EU countries when the effective use and enjoyment of transport take place within the territory of Lithuania;
- Intra-Community transport of goods between Member States and related intermediary services (see the chapter on the European Union);
- Ancillary services related to the intra-Community transport of goods and related intermediary services (see the chapter on the European Union);
- Valuation, servicing, rework and work on movable tangible property services;
- Natural gas and electricity;
- The acquisition of goods in Lithuania as part of a triangular transaction (see the chapter on the European Union); and
- Any other acquisition effected in Lithuania, if the supplier is not registered for VAT in Lithuania.

Late Registration Penalties

Penalties and interest are not assessed for late registration or failure to register for VAT. However, if a business does not register for VAT, it is still obliged to calculate and pay VAT. Failure to comply with this obligation may result in penalties and interest.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services not liable to tax, which do not give rise to a right of input tax deduction (see section F *Recovery of VAT by Taxable Persons*). Goods and services that are outside the scope of VAT do not influence tax deduction.

In Lithuania, currently four rates of VAT apply – the standard rate at 18%, the reduced rates at 9% and 5%, and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at reduced and zero rates of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Healthcare services and goods
 Real estate rent and disposal
 Insurance and reinsurance
 Certain financial services
 Cultural and sporting activities
 Educational services
 Betting and gaming services
 Postal services
 Social and related services
 Radio and television services
 Imported goods (certain cases)

Examples of Supplies of Goods and Services Taxable at 0%

Exports of goods from the European Union and related services
 International transport and related services
 Supplies related to ships and aircraft
 Intra-Community supplies of goods
 Supplies of goods to the recipients of charity
 Work on movable tangible property
 Intermediary services for the above supplies

Examples of Supplies of Goods and Services Taxable at 5%

Books, newspapers and magazines
 Passenger transportation
 Medical equipment and pharmaceutical products
 Hotel services
 Certain foodstuffs

Examples of Supplies of Goods and Services Taxable at 9%

Services paid for by the state or a municipality, (such as construction, renovation and heating)

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods and services is when the VAT invoice is issued. If an invoice is not issued, the time of supply is when the earlier of the following occurs:

- Goods or services are supplied; and
- Payment for goods or services is received.

A range of other situations have different time of supply rules, some are outlined below (these examples are not exhaustive).

Intra-Community Acquisitions

The time of supply for the goods acquired from another EU Member State is when the supplier issues an invoice, but not later than the 15th day of the month following the month during which the transport of goods started.

Prepayments

The time of supply for a prepayment received before the supply is made is when the prepayment or the total payment is received. This rule applies to contracts lasting for longer than 12 months. This treatment does not apply to the payment for travel services and used goods.

Construction Work

The time of supply for the construction of a building, or for essential improvement work carried out on a building, is when the building is first used.

Imported Goods

The time of supply for imported goods is the date when the goods enter into Lithuania.

Reverse Charge Services

The time of supply for reverse charge services is the earliest of the following events:

- When the Lithuanian customer receives the invoice;
- When the Lithuanian customer makes a payment; and
- The last day of the tax period following the period when the supply took place.

F. Recovery of VAT by Taxable Persons

A taxable person that is registered for VAT and performs economic activities may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services acquired within Lithuania, VAT paid on imports of goods and VAT self-assessed for reverse charge services received.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice or on cash receipts (for small amounts of VAT).

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase, lease and hire of cars

Business gifts

Entertainment expenses

Tourism services if special VAT scheme is applied

Second-hand and cultural value goods if special VAT scheme is applied

Partial Deduction

Input tax directly related to making exempt supplies is not generally recoverable. If a taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial deduction.

The amount of input tax that may be deducted is generally calculated using a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered. The calculation is done using a pro rata method, based on the value of taxable supplies made in the period, compared with the value of total supplies made.

If a taxable person is not able to directly allocate VAT to taxable and exempt supplies, a pro rata calculation may be used for all input tax incurred.

A partially exempt taxable person may provisionally use the recovery percentage calculated for the previous year. If, at the end of the year, the taxable person's actual recovery percentage differs by more than 5% from the provisional percentage used, an adjustment calculation must be made.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial deduction recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period, or if the capital goods are either used for nontaxable supplies or written off. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the taxable person's recovery percentage has increased or decreased in the year, compared with the year in which the capital goods were acquired.

In Lithuania, the capital goods adjustment applies to the following assets for the number of years indicated:

- Property immovable by its nature, including improvement of buildings or structures (adjusted for a period of 10 years); and
- Other types of tangible capital assets legally required to be depreciated over a period of at least 4 years for the purposes of taxes on profit or income (adjusted for a period of 5 years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for immovable property and $\frac{1}{5}$ for other tangible capital goods). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax that is deductible for a VAT period exceeds the amount of output tax that is chargeable in the same period, the taxable person has a VAT credit. The credit must first be used to offset other taxes payable. If the amount of VAT credit exceeds all taxes payable, the excess is refunded.

G. Recovery of VAT by Non-Established Businesses

Lithuania refunds VAT incurred by businesses that are neither established nor registered for VAT in Lithuania. A non-established business is allowed to claim Lithuanian VAT to the same extent as a VAT-registered business.

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. Refund scheme for non-EU countries applies under reciprocity principle.

To claim a refund, a non-established business must satisfy the following conditions:

- It must have no business establishment in Lithuania (or if the claimant is an individual, he or she must not be a permanent resident in Lithuania); and
- It must not make taxable supplies of goods or services in Lithuania.

However, if the claimant supplies international transport services or sells goods that are taxed by applying the reverse charge mechanism, it may still apply for a VAT refund.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes see the chapter on the European Union.

Refund Application

The formal deadline for refund claims is 30 June of the year following the year when the input tax was incurred. Claims must be submitted in Lithuanian. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is 700 Lt (approximately €200). For an annual claim the minimum amount is 100 Lt (approximately €30).

Applications for refunds of Lithuanian VAT should be sent to the following address:

Vilniaus apskrities Valstybinò mokesãiu inspekcija
Šermukšnių g. 4
Vilnius, Lithuania

H. Invoicing

VAT Invoices and Credit Notes

A Lithuanian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. A VAT invoice is necessary to support a claim for input tax deduction.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the taxable value changes (for example, if the customer returns the goods or the supplier grants a discount) or VAT rate changes.

Proof of Exports

Supplies of exported goods are zero-rated. An export supply must be accompanied by evidence confirming that the goods have left Lithuania.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left Lithuania. Suitable evidence includes the exportation documentation stamped by customs. The exporter may also request acknowledgment from customs that the goods have been exported from Lithuania. Special rules apply to the evidence required for excise goods.

Invoices Issued in a Foreign Currency

If an invoice is issued in a foreign currency, the taxable value and VAT amount must be converted to Lithuanian litas (Lt). The Bank of Lithuania publishes currency conversion rates each day.

I. VAT Returns and Payment**VAT Returns**

Lithuanian taxable persons must generally file VAT returns monthly. A taxable person whose taxable supplies did not exceed Lt 200,000 in the previous calendar year may choose to file semi-annually. Individuals generally file semi-annually (or they may request a different VAT period).

Members of international corporate groups may request to file VAT returns for a different period, if the group uses accounting periods other than calendar months. However, the maximum return period allowed is 60 days. Also, both the start of the first period and the end of the last period must coincide with the calendar year (that is begin on 1 January and end on 31 December each year).

Generally, monthly VAT returns must be filed by the 25th day of the month following the end of the tax period (other cases may apply). Payment in full is required on the same date. VAT return liabilities must be paid in Lithuanian litas.

Penalties

The penalty assessed for the late payment of VAT ranges from 10% to 50% of the tax not paid. In addition, late payment interest is calculated from the day following the due date for payment up until payment is made (the current rate is 0.03%).

Other offenses, including making a false declaration and failure to submit a VAT return, may give rise to assessment of a penalty and late payment interest. In particular, failure to submit a declaration on time gives rise to the penalty equal to 1% of the sum of VAT underpaid or overclaimed.

J. EU Declarations**INTRASTAT**

With effect from 1 May 2004, a taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT and EU Sales Lists (ESLs). Penalties may be imposed for late, missing and inaccurate INTRASTAT returns and ESLs.

LUXEMBOURG

Country Code 352

LUXEMBOURG CITY**GMT +1****Ernst & Young Tax Advisory Services****Mail Address:****P.O. Box 780****L-2017 Luxembourg****Street Address:****7, Parc d'Activité Syrdall****L-5365 Munsbach****Legal Address:****6, rue Jean Monnet****L-2180 Luxembourg****Indirect Tax Contacts**John Hames (*Partner*)**42 124 256****E-mail: John.Hames@lu.ey.com**Yannick Zeippen (*Senior Manager*)**42 124 362****E-mail: Yannick.Zeippen@lu.ey.com**Ulrike Schrenk (*Senior Manager*)**42 124 578****E-mail: Ulrike.Schrenk@lu.ey.com****A. At a Glance**

| | |
|---------------------|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Taxe sur la Valeur Ajoutée (TVA) |
| Date Introduced | 5 August 1969 |
| European Union (EU) | |
| Member State | Yes |
| Administered by | The Ministry of Finance https://saturn.etat.lu/etva/index.do www.aed.lu |
| VAT Rates | |
| Standard | 15% |
| Reduced | 3%, 6% and 12% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | LU12345678 |
| VAT Return Periods | Monthly (turnover more than €620,000) Quarterly (turnover between €112,000 and €620,000) Annual (all taxable persons, including those with turnover below €112,000) |

| | |
|---|----------|
| Thresholds | |
| Registration | None |
| Distance Selling | €100,000 |
| Intra-Community Acquisitions | €10,000 |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Luxembourg by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person or non taxable legal person (see the chapter on the European Union); and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

C. Who Is Liable

A “taxable person” is any business entity or individual that carries out economic activities independently and regularly. Economic activities include activities such as making supplies of goods or services, making intra-Community acquisitions (see the chapter on the European Union) or making importations in the course of a business.

No VAT registration threshold applies in Luxembourg. A taxable person that commences activity in Luxembourg must notify the Luxembourg VAT authorities of its liability to register.

Special rules apply to foreign or “non-established” businesses.

Group Registration

VAT grouping is not permitted under the Luxembourg VAT law. Legal entities that are closely connected must register for VAT individually.

However, since 1 January 2004, non-taxable persons or taxable persons that have a VAT recovery rate of less than 30% may set up an autonomous group of persons. The services supplied by this group to its members are generally exempt from VAT.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Luxembourg. A non-established business that makes taxable transactions in Luxembourg must register for VAT, unless it is not liable for VAT (for example, because its supplies to taxable persons may be taxed using the “reverse charge” mechanism). Under the reverse charge, the recipient of the supply must account for the tax. The reverse charge does not apply to supplies of goods and services made to private persons. A non-established business must register for Luxembourg VAT if it makes any of the following supplies, which are all liable for Luxembourg VAT (unless an exemption applies):

- Intra-Community supplies or acquisitions;
- Distance acquisitions in excess of the threshold (see the chapter on the European Union); or

- Supplies of goods and services to which the reverse charge does not apply.

Tax Representatives

With effect from 1 January 2002, businesses established in the European Union may register for VAT without appointing a tax representative. However, a taxable person established in the European Union may appoint a tax correspondent to deal with all its VAT matters, if it chooses to do so.

Businesses established outside the European Union must provide a security deposit to the Luxembourg VAT authorities in order to register. The deposit must be in the form of cash or a letter of indemnity provided by an approved bank.

The VAT registration application for non-established businesses must be sent to the following address:

Administration de l'Enregistrement et des Domaines
Bureau d'imposition 10
7, rue du Plébiscite
BP 31
L-2010 Luxembourg

Late Registration Penalties

A penalty of between €50 and €5,000 may be assessed for late VAT registration.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services, intra-Community supplies of goods (see the chapter on the European Union).

In Luxembourg, four rates of VAT currently apply – the standard rate at 15% and three reduced rates at 3%, 6% and 12%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services (with and without VAT credit)

Real estate transactions
Supplies of postage and fiscal stamps at face value
Services of doctors and dentists
Finance

Examples of Goods and Services Taxable at 3%

Food for human consumption, excluding alcohol
Agricultural products
Books, newspapers and periodicals
Children's shoes and clothes

Examples of Exempt Supplies of Goods and Services (with and without VAT credit)

Insurance
 Cultural and sporting
 Services
 Welfare services
 Education

Examples of Goods and Services Taxable at 3%

Sale of domestic
 accommodation

 Pharmaceutical products
 Restaurant services
 Water
 Transport of persons
 Admission to cultural events

Examples of Goods and Services Taxable at 6%

Liquefied gas for heating,
 lighting and fueling engines
 Electric energy
 Plants and other floriculture
 products
 Hairdressing
 Repair of bicycles, shoes
 and other leather goods
 Cleaning of private
 accommodation

Examples of Goods and Services Taxable at 12%

Wine of grapes assaying 13°
 or less of alcohol
 Solid mineral combustibles,
 mineral oil and wood used
 as fuel
 Publicity and marketing ser-
 vices, and tourist brochures
 Services of travel agents and
 tour operators
 Steam, heating and cooling
 Tailored clothes for men
 Custody and management of
 securities

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” For supplies of goods, the basic time of supply is when the goods are delivered. The basic time of supply for services is when the service is completed.

The actual time of supply may be delayed by the issue of an invoice (when the issue of an invoice is mandatory), but no later than the 15th day of the month following the month when the basic time of supply took place.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month when the acquisition occurred. If the supplier issues an invoice (other than relating to an installment) prior to this date, the time of supply is when the invoice is issued.

Imported Goods

The time of the supply for imported goods is the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax

is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Luxembourg, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible Input Tax

In Luxembourg, input tax may be deducted in full for all items of business expenditure. 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 or the private use of an entrepreneur's home telephone).

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax is Non-Deductible

Private expenditure
Tobacco and alcohol

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire, lease, maintenance and fuel for cars, vans and trucks
Parking
Business gifts
Attending conferences, seminars and training courses
Business entertainment
Business use of home telephone
Advertising
Transport

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Luxembourg taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as taxable supplies for these purposes.

In Luxembourg, the amount of input tax that a partially exempt business may recover may be calculated by using the general pro rata method or a special deduction method.

The general pro rata method calculates the amount of recoverable VAT based on the percentage of taxable to exempt turnover. Incidental supplies of capital goods and incidental real estate and financial transactions are excluded from turnover for these purposes. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 77.2% is rounded up to 78%).

Alternatively, the Luxembourg VAT authorities may authorize a taxable person to use a special deduction method based on the actual allocation of all or certain goods and services used in making taxable and exempt supplies. The VAT authorities have the power to direct a taxable person to use this method. The administration may also authorize, or direct, the use of a special deduction method for different sectors of a single business or for certain sectors of the business.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period.

In Luxembourg, capital goods are defined as tangible, movable or immovable goods that are subject to depreciation under income tax law. They also include work that qualifies as investment expenditure under the income tax law.

The capital goods adjustment applies to the following assets for the number of years indicated:

- Immovable capital assets, mainly buildings (adjusted for a period of 10 years); and
- Movable capital assets (adjusted for a period of five years).

For movable goods, the adjustment period starts on 1 January of the year in which the goods are manufactured or purchased. If the goods are first used in a later year, the period starts on 1 January of the year when the goods are first used. The adjustment is applied each to $\frac{1}{5}$ of the total input tax, unless the goods are sold. If the goods are sold, the adjustment is made once for the total remaining period. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

For immovable goods, the adjustment period starts on 1 January of the year in which the acquisition takes place or construction or refurbishment work ends, or on 1 January of the year in which the immovable property is first used if the use is postponed. The adjustment is applied each year to $\frac{1}{10}$ of the total input tax, unless the goods are sold. If the immovable property is sold, the adjustment is made once for the total remaining period. The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the immovable property was acquired, constructed or refurbished.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. If the credit is greater than

€1,200, a refund may be claimed. A separate request for a refund must be submitted to the VAT authorities, in addition to the VAT return.

G. Recovery of VAT by Non-Established Businesses

Luxembourg refunds VAT incurred by businesses that are neither established in Luxembourg nor registered for VAT there. A non-established business is allowed to claim Luxembourg VAT to the same extent as a VAT registered business. However, VAT may not be recovered on tobacco and alcohol (and private expenditure).

For businesses established in the European Union, a refund is made under the terms of the EC 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EC 13th Directive. Luxembourg does not exclude any non-EU country from the refund scheme.

For the general VAT refund rules of the 8th and 13th Directives refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following the calendar year in which the tax was incurred. This deadline is strictly enforced.

Claims must be submitted in German or French. The application for refund must be accompanied by the appropriate documentation (such as, the original invoices and certificate of taxable status).

For EU 8th Directive claims, the minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25.

For EU 13th Directive claims, the minimum claim period is one year. The minimum claim amount is €250.

Applications for refunds of Luxembourg VAT may be sent to the following address:

Administration de l'Enregistrement et des Domaines
Bureau d'imposition XI
Remboursements et franchises
67-69, Rue Verte
BP 31
L- 2010 Luxembourg

Repayment Interest

The Luxembourg VAT authorities do not pay interest on late refunds of VAT made under the EU 8th and 13th Directive schemes.

H. Invoicing

VAT Invoices and Credit Notes

A Luxembourg taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer or for distance sales.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods or services. The document must be marked “credit note.” It must be cross-referenced to the original VAT invoice and contain the same information.

Proof of Exports and Intra-Community Supplies

Luxembourg VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence proving that the goods have left Luxembourg. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially validated by customs, showing the supplier as the exporter. The invoice must include the following information: *Not subject to Luxembourg VAT, article 43,1,a of the Luxembourg VAT Law – export*; and
- For an intra-Community supply, a range of commercial documentation such as purchase orders, tax invoices, transport documentation, proof of payment and contracts. The invoice must include the following information: *Not subject to Luxembourg VAT, article 43, 1, d) of the Luxembourg VAT Law – intra-Community supplies of goods*.

Foreign Currency Invoices

If an invoice is issued in a foreign currency, the tax and values for VAT purposes may be converted to Euros (€) using the official in force on the date of the invoice, rate published by a Luxembourg approved bank.

I. VAT Returns and Payment

VAT Returns

Luxembourg VAT returns are usually submitted for monthly, quarterly or annual periods, depending on turnover.

Taxable persons whose annual turnover does not exceed €112,000 must submit an annual return for the calendar year. The due date is 1 March of the following year.

Taxable persons whose annual turnover is between €112,000 and €620,000 must submit periodic returns quarterly, plus an annual return. The due date for the periodic returns is the 15th day of the month following the end of the return period. The due date for the annual return is 1 May of the following year.

Taxable persons whose annual turnover exceeds €620,000 must submit periodic returns monthly, plus an annual return. The due date for the periodic returns is the 15th day of the month following the end of the return period. The due date for the annual return is 1 May of the following year.

To date, filing extensions are automatically granted for both the periodic and the annual returns. However, if a filing extension is used for the annual return, a taxable person whose annual

turnover does not exceed €112,000 must pay provisional installments.

Return liabilities must be paid in Euros.

Penalties

Penalties are assessed for the late payment or late submission of a VAT return in the following amounts:

- For monthly or quarterly returns, the fine may vary from €50 to €5,000; and
- For annual returns, the fine may vary from €50 to €5,000.

J. EU Declarations

INTRASTAT

A Luxembourg taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT returns, if the value of 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). Electronic submission is allowed (that is, by e-mail).

The threshold for INTRASTAT Arrivals for the calendar year 2005 is €150,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €150,000.

Luxembourg taxable persons must complete INTRASTAT declarations in Euros.

INTRASTAT returns are due monthly by the 6th day of the month following the period (unless they are submitted electronically or on floppy disk, in which case a 10-day filing extension is allowed).

A penalty may be imposed for late submission or for missing or inaccurate declarations. The fine is generally €500 (although the statistical authorities may impose a penalty of between €251 and €2,500).

EC Sales Lists

If a Luxembourg taxable person makes intra-Community supplies, it has to submit EC Sales Lists (ESL) An ESL is required even if no intra-Community supplies are performed during one quarter (a nil ESL must then be submitted).

ESLs must be submitted quarterly by the 15th day of the month following the end of the ESL return period. However, ESLs may be submitted annually if all of the following conditions are met:

- Annual turnover is between €45,000 and €112,000;
- Intra-Community supplies are below €15,000; and
- No intra-Community supplies of means of transport are made.

A penalty may be imposed for late, missing and inaccurate ESLs. The penalty may vary from €50 to €5,000.

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A. At A Glance

| | |
|---|--|
| Name of the Tax | Sales Tax |
| Date Introduced | 29 February 1972 |
| European Union (EU) Member State | No |
| Administered by | Royal Malaysian Customs Department http://www.customs.gov.my |
| Sales Tax Rates | |
| Standard | 10% |
| Other | 5%, 20% and 25% |
| Sales Tax Return Periods | Bi-Monthly |
| Thresholds | |
| Registration | RM 100,000 |
| Recovery of Sales Tax by Non- Established Businesses | Not applicable |

B. Scope of the Tax

Sales Tax is a single stage tax, applied to locally manufactured goods, as well as imported goods. Sales Tax is not imposed on services, real property and intangible goods.

All goods manufactured in, and imported into, Malaysia are subject to Sales Tax, unless they are specifically exempted by law. However, Sales Tax does not apply to goods manufactured in, or

imported into, Labuan, Langkawi and Tioman, and in a Joint Development Area, free zone or licensed manufacturing warehouse.

Future Developments

On 19 September 2004, the Prime Minister and Minister of Finance of Malaysia announced a proposal to implement a new Goods and Services Tax (GST) with effect from 1 January 2007. The new GST would replace the existing Sales Tax and Service Tax and would be more similar in nature to a value added tax. A Taxation System Review Panel has now been formed to look into various Malaysian tax issues, including the implementation of a GST. At the time of printing, discussions are still being held on this topic and no GST framework is available.

C. Who Is Liable

Any person or entity that manufactures taxable goods in the course of a business must apply for a Sales Tax license. The license must be displayed at the manufacturer's principal place of business. If the manufacturer carries on business in more than one location, each manufacturing site must be covered by the license, which must be displayed at each site.

Exemption from Sales Tax Licensing

A manufacturer of taxable goods whose total turnover did not exceed RM 100,000 in the preceding year and whose turnover is not expected to exceed RM 100,000 in the next 12 months, may apply for a certificate of exemption from Sales Tax licensing. The exemption certificate is valid for one year. An application to renew an exemption certificate must be submitted within 14 days of the expiry date of the current certificate.

If a business exclusively manufactures goods that are exempted from Sales Tax by law, it is relieved from the licensing requirement.

Certain manufacturing operations are also exempted from the licensing requirement, including the following activities (this list is not exhaustive):

- Developing and printing photographs;
- Preparing meals;
- Engraving personal articles;
- Installing goods in buildings;
- Manufacturing ready-mixed concrete;
- Preparing materials for road-making;
- Photocopying;
- Repacking bulk goods into smaller packages (by a person other than a licensed manufacturer);
- Repairing used goods;
- Eyesight testing, prescribing lenses and fitting lenses into frames;
- Varnishing or polishing finished pieces of furniture (by a person other than a licensed manufacturer);
- Personal tailoring services (excluding manufacturing garments);
- Installing air conditioning in a motor vehicle;
- Manufacturing jewelry; and
- Extracting gold from mineral ores.

Importers

An importer does not need to apply for a Sales Tax license. Sales Tax on imported goods is assessed and collected when the goods clear customs, together with any customs duties payable.

Penalties for Failing to Obtain a Sales Tax License

A manufacturer that fails to apply for a Sales Tax license is liable to a penalty, which may include imprisonment for a term not exceeding 12 months or a fine not exceeding RM 5,000 or both.

D. Sales Tax Rates

The term “taxable goods” refers to those locally manufactured as well as imported goods that are not exempted under the Sales Tax law.

Four rates of Sales Tax currently apply – 5%, 10%, 20% and 25%. The 10% rate applies to all goods, unless a specific provision imposes a higher or a lower rate.

The following table lists examples of goods that are taxed at a reduced rate or higher rate of Sales Tax. This list is not exhaustive.

| Examples of Goods Taxed at 5% | Examples of Goods Taxed at 20% | Examples of Goods Taxed at 25% |
|--------------------------------------|---------------------------------------|---------------------------------------|
| Fruit | Liquor and alcoholic drinks | Cigarettes and tobacco products |
| Certain foodstuffs | | |
| Timber and building materials | | |

E. Time of Supply

Sales Tax is due for goods manufactured in Malaysia when the goods are sold, used or disposed of by a taxable person. The definition of “disposal” includes the manufacturer diverting the goods to its own use, destroying the goods, giving away or donating the goods, and a supply of manufactured goods made for no consideration.

Imported Goods

Sales Tax is due for imported goods at the time the goods clear customs or leave a customs warehouse.

F. Invoicing**Sales Tax Invoices**

A licensed manufacturer is required to issue a Sale Tax invoice for the sale of taxable goods. The invoice must be in a local language or in English.

Proof of Exports

Exports of goods are exempted from Sales Tax. To qualify for exemption, it is necessary to prove that the goods have been exported from Malaysia. Acceptable documentation includes a customs export declaration and an export sales invoice issued by a licensed manufacturer.

G. Sales Tax Returns and Payment

Sales Tax returns are generally completed for two-month periods. The due date for the return and payment is the 28th day of the month following the end of the return period.

Taxable persons may agree upon different Sales Tax accounting periods with the tax authorities. It is also possible for a taxable person to pay outstanding Sales Tax including late payment penalty in installments, with the prior agreement of the tax authorities.

Penalties

A penalty of 10% of the tax due is assessed for the late payment of Sales Tax. The penalty amount is increased by a further 10% for every 30-day period that the tax remains unpaid, up to a maximum penalty of 50%.

Penalties are imposed for a range of further offenses, including failure to apply for a Sales Tax license, failure to charge Sales Tax, errors in issuing invoices and failure to keep proper accounting records. Upon conviction, the offender may be liable to an imprisonment term not exceeding 12 months or to a fine not exceeding RM 5,000, or both.

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A. At a Glance

| | |
|-------------------------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | It-Taxxa Fuq Il-Valur Mizjud |
| Date Introduced | 1 January 1999 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered by | The Ministry of Finance http://www.vat.gov.mt |

| | |
|---|--|
| VAT Rates | |
| Standard | 18% |
| Reduced | 5% |
| Other | Exempt with Credit and Exempt without Credit |
| VAT Number Format | MT12345678 |
| VAT Return Periods | Quarterly and Annually |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods and the provision of services that take place in Malta by a taxable person for consideration, in the course or furtherance of an economic activity;
- Intra-community acquisition of goods (see the chapter on the European Union);
- Intra-Community acquisitions of new means of transport (see the chapter on the European Union);
- The acquisition of excise goods; and
- The importation of goods into Malta (other than exempt importations).

C. Who Is Liable

A “taxable person” is any person that carries on an economic activity, irrespective of the purpose or result of that activity.

No registration threshold applies in Malta although small businesses may be exempted from certain obligations. Any person or business entity that carries on an economic activity in Malta is liable to register for VAT within 30 days of making a taxable supply.

Group Registration

VAT group registration is not allowed under the Maltese VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses and Tax Representatives

A “non-established business” may be any of the following persons:

- A taxable person that has not established its economic activity;
- A taxable person that has no fixed place of establishment in Malta;
- A physical person who has not fixed his economic activity in Malta; or
- A physical person who does not have a fixed place of establishment, or has no permanent address or does not usually reside in that country.

A non-established business that makes supplies in Malta may appoint a tax representative or may be obliged by the Maltese tax authorities (the Commissioner) to do so. The Commissioner may designate, by means of a written notice, a person resident in Malta with whom the non-established business has a business

relationship as his tax representative – unless the non-established business has already designated a representative. The representative must be nominated in writing to the VAT authorities. A tax representative is jointly and severally liable with the person represented.

Late Registration Penalties

Penalties are assessed for late registration or for failure to keep records or submit returns. A penalty for late registration is assessed on an amount equivalent to the higher of:

- 1% of the excess, if any, of the output tax due over input tax (and any allowable deductions) for the first VAT period following registration; and
- 10 Maltese lira of the excess, if any, of output tax over input tax (and any allowable deductions) for every month or part of a month that the registration is late.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT (either at the standard rate of 18% or the reduced rate of 5%). The term “exempt supplies” is used for supplies of goods and services not liable to tax and which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services to third territories (that is, territories outside the European Union). In Malta, currently two rates of VAT apply – the standard rate at 18% and the reduced rate at 5%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services (Without Credit) | Examples of Exempt with Credit (0%) Supplies of Goods and Services | Examples of Supplies of Goods and Services Taxable at 5% |
|---|---|---|
| The letting of immovable property | Food, excluding catering | Hotel accommodation of Certain types of accommodation |
| Health & Welfare | Pharmaceutical goods | Confectionery |
| Education | International transport | Medical Equipment and Accessories |
| Postal Services | Exports of goods and related services | Printed Matter |
| Banking and insurance | Supplies to ships | Supply of electricity |
| The grant and negotiation of credit and the supply of gold to the Central Bank of Malta | | |
| Management of credit by the grantor | | |

Examples of Exempt Supplies of Goods and Services (Without Credit)

Religious services
The supply by non-profit organizations of approved services related to sports or physical recreation

Examples of Exempt with Credit (0%) Supplies of Goods and Services

Examples of Supplies of Goods and Services Taxable at 5%

E. Time of Supply

The time when VAT becomes due is referred to as the “date of the chargeable event” or tax point.

The basic tax point for a supply of goods is when the goods are delivered or otherwise made available to the recipient of the supply. The basic tax point for a supply of services is when the services are performed. If a VAT invoice is issued before the basic tax point or within 30 days of the supply, the date when the VAT invoice is issued becomes the actual tax point. The actual tax point overrides the basic tax point.

F. Recovery of VAT by Taxable Persons

A VAT registered person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is recovered by deducting the amount from output tax, which is VAT charged on supplies made in the same period.

Input tax includes VAT charged on goods and services supplied within Malta, VAT paid on imports of goods and any VAT self-assessed for reverse charge services received from outside Malta.

For a claim for input tax to be valid, the following conditions must be met:

- The claim must be supported by a tax invoice;
- The person claiming the expense must have the document in its possession, and produce it to the Commissioner if and when requested;
- The amount of tax claimed must be properly accounted for in the records held by the claimant; and
- The VAT is recoverable to the extent allowable by the VAT Act.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Non-business expenditure
 Purchase, repair and maintenance, lease, fuel and hire of vehicles (excluding commercial vehicles)
 Business and employee entertainment
 Tobacco and alcohol
 Works of art and antiques

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

All other business expenditure

Partial Attribution (Partial Exemption)

Input tax directly related to the provision of exempt supplies is generally not recoverable. If a registered person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial attribution. The amount of input tax that may be deducted from output tax by a partially exempt business is based on the percentage of taxable supplies made compared with total supplies made. Attribution is based on a provisional rate in the first year (Year 1) and is then adjusted to a definitive rate – based on the level of taxable supplies made compared with total supplies made on an annual basis. The definitive rate (as amended at the end of the first year) is used as the provisional rate in the second year (Year 2).

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period or when the use of the capital goods changes.

An adjustment may be necessary to the initial VAT deduction in respect of capital goods and in respect of immovable property, either due to changes in the circumstances of the business or to changes in the proportion of use of the asset in the business. In these circumstances, an adjustment to the initial deduction is made. The period of adjustment is five years in respect of capital goods and is twenty years in the case of immovable property.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person earns an input tax credit. A taxable person is entitled to a refund of the credit. The refund must be paid within five months either from the due date of the VAT return, or from the day when the return is submitted, whichever is later. Alternatively, the taxable person may use the excess credit as a deduction against output tax in a subsequent period, provided it has not yet been refunded.

The VAT authorities pay interest on late-paid VAT refunds at a rate of 1% per month or part of a month, from the date when the refund becomes payable until the date it is paid.

G. Recovery of VAT by Non-Established Businesses

The VAT authorities do refund VAT incurred by businesses that are neither established nor registered for VAT in Malta, and this in terms of the EU Eighth and Thirteenth Directives (see chapter on the European Union). For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive on the basis of reciprocity.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Claims for refunds under both directives and on the appropriate forms should be sent to the following address:

Commissioner of VAT
Value Added Tax Department,
Centre Point Building,
Ta' Paris Road,
Birkirkara CMR 02.
Malta.

H. Invoicing

VAT Invoices and Credit Notes

A registered person must generally provide a VAT invoice for all taxable supplies of goods and services made and for exports. Fiscal receipts must be issued for retail sales. A purchaser who receives a fiscal receipt for a supply must retain it for a period of at least 24 hours because the purchaser may be required to produce the receipt for inspection by the VAT authorities.

A credit note may be used to reduce VAT charged and reclaimed on a supply. A credit note must be cross-referenced to the original invoice.

Proof of Exports

VAT is not chargeable on exports of goods to third territories. An export supply must be accompanied by evidence that confirms the goods have left Malta. Suitable evidence includes the stamped customs exportation documentation.

Foreign Currency Invoices

Invoices may only be issued in a Maltese lira. Foreign currency may only be quoted as a reference using the selling rate quoted by the Central Bank of Malta before the date when the supply takes place.

I. VAT Returns and Payment

VAT Returns

In most cases, registered persons file VAT returns quarterly. VAT returns must be filed within one and a half months from the end

of the tax period. Payment in full is required on the same date. Return liabilities must be paid in Maltese lira.

Penalties

A penalty is assessed for late payment of VAT. The penalty is an amount equivalent to the greater of:

- 1% of the tax due; and
- Maltese lira 10 per month or part of a month.

Interest is assessed on any VAT paid late, currently at a rate of 1% for each month or part of a month. The rate of interest may change.

A penalty for default in submitting a tax return is assessed at the greater of the following two amounts:

- 1% of the excess, if any, of the output tax over input tax for the period (disregarding any excess credit brought forward from a previous tax period and any allowable deductions); and
- Maltese lira 10 for every month or part of a month that the return is late.

J. EU Declarations

INTRASTAT

With effect from 1 May 2004, a taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT and EU Sales Lists (ESLs). Penalties may be imposed for late, missing and inaccurate INTRASTAT returns and ESLs.

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A. At a Glance

| | |
|----------------------------------|----------------------------------|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 1 January 1980 |
| European Union (EU) Member State | No |

| | |
|---|---|
| Administered by | The Ministry of Finance and Public Credit http://www.sat.gob.mx http://www.shcp.gob.mx |
| VAT Rates | |
| Standard | 15% |
| Reduced | 10% |
| Other | Zero-Rated and Exempt |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | Commencement of Activity |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- Supplies of goods made or services provided in Mexico by a taxable person;
- Supplies of goods and services subject to the reverse charge (see Section C *Who Is Liable*);
- Grants of temporary use or exploitation of goods; and
- Importations of goods from outside Mexico, irrespective of the status of the importer.

C. Who Is Liable

A taxable person is any business entity or individual that makes taxable supplies or grants of temporary use of goods or provides services in the course of doing business in Mexico. A business entity or individual is liable to register for VAT with effect from its first taxable transaction.

Group Registration

VAT grouping is not allowed under the Mexican VAT law. Legal entities that are closely connected must register for VAT individually.

Foreign Businesses

A foreign legal entity with an establishment in Mexico must submit an application for VAT registration, together with its corporate documents, to the Ministry of Finance and Public Credit. The registration must be submitted together with the request of the tax identification (ID).

A non-established business that has no permanent establishment in Mexico must appoint a tax representative in order to register for VAT.

Reverse Charge

The “reverse charge” applies to certain supplies of goods and services. Under this provision, the taxable person that receives a supply must withhold the VAT due from the supplier and it has the obligation to pay the VAT. The reverse charge applies to a variety of transactions, including the following:

- Fees paid by companies to individuals;
- Acquisition of scrap materials;
- Ground transportation of goods;

- Commissions paid by companies to individuals;
- Purchases made by major exporters and companies with foreign trade programs; and
- The lease or acquisition of tangible goods from residents abroad.

Late Registration Penalties

Penalties and interest are assessed for a number of VAT errors, including late registration for VAT (see Section I *Returns and Payment*).

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT, including supplies at the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Mexico, three rates of VAT currently apply – the standard rate at 15%, the reduced rate at 10% and the zero rate (0%). The 15% standard rate applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

The 10% reduced rate applies to supplies of goods and services by residents in the border region of Mexico, except for sales of real estate. The reduced rate applies on the condition that the goods are physically delivered or the services are actually rendered in that region.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are zero-rated. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Books, newspapers and magazines

Land and buildings used for residential purposes

The transfer of copyright by the author

Education

Public transport off passengers by land (excluding rail transportation)

Transportation of goods by sea for nonresidents

Local and foreign currency and credit instruments (including shares)

Temporary import of goods, import of goods temporarily exported, goods in transit and the importation of goods and services that would be zero-rated or exempt if supplied in Mexico

Examples of Goods and Services Taxable at 0%

Exported goods

Certain exported services

Unprocessed food and milk

Patented medicines

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic tax point for supplies of goods and services is when the customer pays the consideration. In other words, VAT is determined on a cash flow basis.

Imported Goods

The time of supply for imported goods is when the goods clear all customs procedures.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax (also known as credit VAT), which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax (also known as debit VAT), which is VAT charged to the clients. Input tax includes VAT charged on goods and services supplied within Mexico, VAT paid on imports of goods and VAT withheld on reverse charge goods and services.

To be deductible, input tax must relate to the acquisition of goods and services that qualify as deductible expenses for income tax purposes. If an item of expenditure is only partly deductible for income tax purposes, input VAT may be credited only in respect of the deductible portion of the expense.

A valid tax invoice or customs document must generally support a claim for input tax.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business gifts
Entertainment of employees

Examples of Items for which Input Tax Is Deductible (if fully related to a taxable business use)

Business entertainment
Accommodation
Purchase of a vehicle, up to Mex\$300,000
Lease of a vehicle, up to Mex\$850 per day
Mobile phone
Travel expenses
Taxis

Partial Exemption

Input tax directly related to making exempt or nontaxable supplies is generally not recoverable. If a taxable person makes exempt or nontaxable supplies, as well as taxable supplies, it may not recover input tax in full.

A taxable person that makes taxable as well as exempt or nontaxable supplies must calculate its input tax credit based on a “credit factor.” The credit factor is determined based on the percentage of

taxable turnover compared with total turnover (including taxable and exempt or nontaxable supplies) in the previous fiscal year.

Rules for 2005

With effect from 2005, the VAT rules relating to the calculation of creditable VAT have been amended, to provide new calculations for the allocation of costs between exempt and taxable activities. The new rules allow more costs and expenditure to be allocated directly to taxable or non taxable activities, additionally; new rules have been introduced to determine the credit VAT.

A taxable person that makes taxable and exempt or nontaxable supplies must calculate its input tax credit based on a "credit factor." The credit factor was determined based on the percentage of taxable turnover compared with total turnover in the previous fiscal year. However, this procedure was disputed in court and the taxpayer received a favorable ruling. As a result, the VAT Law has been amended in order to establish that the taxpayer must consider the figures of the month of the payment, in order to determine the credit factor.

Refunds

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax periods, or it may be refunded on request.

The tax authorities refund a VAT credit by depositing the refundable amount into the taxable person's bank account. By law, refunds must be made within 40 business days after the date when the refund request is filed. However, if the taxpayer files a tax report, the refund period may be reduced to 25 business days.

G. Recovery of VAT by Non-Established Businesses

Mexico does not refund VAT incurred by businesses that are neither established in Mexico nor registered for VAT there. If a foreign business has an establishment in Mexico for VAT purposes and makes taxable supplies there, it may request a refund of any VAT credit balances through the general refund procedure for taxable persons (see Section F *Recovery of VAT by Taxable Persons*).

H. Invoicing

VAT Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. Invoices must have been printed within the previous two years by an establishment authorized by the Ministry of Finance and Public Credit. Taxable persons that make supplies of goods or services to the general public may issue simplified vouchers.

A valid VAT invoice is necessary to support a claim for input tax deduction.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply of goods and services. A credit note must contain the same information, and fulfill the same requirements, as a VAT invoice.

Exports

Mexican VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that proves the goods have left Mexico. Suitable proof includes the customs export documentation for the transaction.

Foreign Currency Invoices

If a VAT invoice is issued in foreign currency, the values for VAT purposes must be converted to Mexican pesos (Mex\$), using the exchange rate published on the date of the transaction by the Central Bank of Mexico in the *Federal Official Gazette*.

I. VAT Returns and Payment

VAT Returns

VAT returns must be submitted for monthly periods. VAT returns and payment in full are due by the 17th day of the month following the end of the return period. In most cases, taxable persons must file VAT returns electronically.

Return liabilities must be paid in Mexican pesos.

Penalties

Penalties are assessed for errors and omissions connected with VAT accounting. Under the Mexican Federal Tax Code, the following are considered tax offenses:

- Failure to comply with the obligations set out in tax provisions, including late compliance with those obligations;
- Underpayment and nonpayment of taxes;
- Overestimated refunds, credits or offsets;
- Issuing invoices noncompliant with tax requirements;
- Mathematical errors in filed returns; and
- Failure to keep accounting books.

Any amount of tax that is not paid by the due date must be adjusted for inflation. A monthly surcharge is also applied to the amount of tax owed at a rate of 1.5% per month. If the taxable person corrects the error voluntarily or if the late payment is due to factors beyond the taxable person's control, no fines are imposed (however, the surcharge and inflation restatement still apply).

Interest is assessed on late payments of tax at a rate of 1.5% monthly (set for the fiscal year 2004).

The Federal Tax Code also lists tax crimes, which are criminal offenses. Tax crimes include the following offenses:

- Contraband;
- Tax fraud; and
- Hiding, altering or destroying (in whole or in part) accounting books and records.

Criminal offenses are punishable by fines, which may be a percentage of the tax lost or a specified amount. Tax crimes may also be penalized with a term of imprisonment of between three months and nine years, or even longer, depending on the circumstances.

MOLDOVA

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Taxa pe valoarea adaugata (TVA) |
| Date Introduced | 1 July 1998 |
| European Union (EU) Member State | No |
| Administered by | Principal State Fiscal Inspectorate www.fisk.md |
| VAT Rates | |
| Standard | 20% |
| Reduced | 5%, 8% |
| Other | Zero-rated and Exempt |
| VAT Number Format | 1234567 |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | 200,000 MDL |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Moldova by a taxable person in the course of a business;
- Importation of services (using the “reverse charge” mechanism) received in Moldova by a taxable person; and
- Importation of goods.

C. Who Is Liable

A “taxable person” is any person or legal entity that is registered for VAT in Moldova. Any entity that has a fixed place of business or carries out commercial or professional operations on a regular basis in Moldova must register for VAT.

The VAT registration threshold is turnover of 200,000 MDL within a period of any 12 consecutive months.

Group Registration

VAT grouping is not permitted under Moldovan VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

Foreign traders are not permitted to have a VAT registration number. If a foreign entity develops entrepreneurial activity in Moldova and the related monthly income exceeds 13,000 MDL, the foreign entity must register for VAT as local entity. It is then treated in the same way as a resident entity.

Reverse Charge

The reverse charge is a form of self-assessment for VAT, whereby the recipient of a supply of goods or services accounts for the tax.

Services rendered by nonresidents to entities that carry on business in Moldova are regarded as “imported” if they are considered to be delivered in the Republic of Moldova. The recipient of the service is required to account for the VAT due in Moldova. The tax is due on the date of payment for the services. VAT paid for imported services is allowed for input tax recovery (see Section F *Recovery of VAT by Taxable Persons*) and is recorded as an expense in the period.

The information relating to VAT on imported services is submitted to the tax authorities in a separate report.

Penalties for Reverse Charge Supplies

If the VAT on an imported service is not paid at the correct time, a penalty is imposed with effect from the date when the VAT became due (that is, with effect from the date of the payment for services).

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are subject to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not subject to VAT. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “zero-rated” which means that no VAT is chargeable, but the supplier may recover related input tax. Zero-rated supplies include exports of goods and related services.

In Moldova, four rates of VAT currently apply – the standard rate at 20%, the reduced rates at 5% and 8% and the zero-rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced rates of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Dwellings
 Food for children
 Financial services
 Educational services
 Insurance
 Betting and gaming
 Books and periodicals

Examples of Supplies of Goods and Services Taxable at 0%

Exports of goods and services
 International transport of persons and freight
 Electric and thermal power
 Supplies of water to the public

Examples of Goods and Services Taxable at 5%

Fresh plant-growing products
 Stock farming products supplied by their producers
 Natural and liquefied gas produced and imported into Moldova

Examples of Goods and Services Taxable at 8%

Bakery products
 Dairy products

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Moldova, the tax point is the date of delivery of the goods or performance of the service. VAT payers must perform payments for every tax period.

Reverse Charge

Tax is payable on reverse charge services on the date of the payment for services.

Imported Goods

The time of supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Moldova, VAT paid on imports of goods and VAT self-assessed on reverse charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax. The right of deduction may be exercised in the tax period when the purchase documents are entered into the recipient's books of account.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Private expenditure
 Purchase of cars
 Home telephone
 Cost of goods that are lost, stolen or destroyed
 Expenditure that is not allowable for income and corporate tax purposes
 Business gifts
 Taxis

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Hire, lease, maintenance and fuel for cars
 Purchase, hire, lease, maintenance and fuel for vans and trucks
 Parking
 Books
 Attendance of conferences, seminars and training courses
 Mobile phones
 Advertising
 Transport
 Hotel accommodation

Partial Exemption

Input tax deduction is not granted for exempt supplies. If a taxable person makes both taxable and exempt supplies, it may recover only input tax related to supplies that are taxable. Zero-rated supplies are treated as taxable supplies for these purposes. Taxpayers who make taxable and exempt supplies may deduct VAT paid on purchases in the following circumstances:

- The taxpayer maintains separate records of payments made for goods and services used both for VAT taxable and exempt supplies; and
- The value of taxable supplies exceeds by more than 50% the value of supplies that are exempt from VAT.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person may request a refund of VAT if the excess VAT is due to:

- The making of “zero” rated taxable supplies; or
- Overpaid tax.

Otherwise, a special procedure applies, as follows:

- The taxable person must submit a request to the tax authorities; and
- The tax authorities will scrutinize the claim before to ensure that the amount claimed is accurate, before repayment is made.

In practice, it may be difficult to request a refund in these circumstances and substantial delays may be experienced.

G. Recovery of VAT by Non-Established Businesses

Moldova does not refund VAT incurred by businesses that are neither established nor registered for VAT there.

H. Invoicing

VAT Invoices and Credit Notes

A taxable person must provide a VAT invoice for all taxable supplies. A VAT invoice is necessary to support a claim for an input tax deduction. No legislation exists relating to credit notes.

Proof of Exports

VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence that confirms the goods have left Moldova. The evidence required is the customs declaration, which clearly identifies the exporter, the customer, the goods and the export destination and invoice information.

Foreign Currency Invoices

A VAT invoice must be issued in the currency of Moldova, the leu (MDL).

I. VAT Returns and Payment

VAT Returns

VAT return periods are generally monthly.

Returns must be filed by the last day of the month following the end of the return period. Payment in full must be made by the same date. However, VAT in respect of reverse charge services must be paid to the tax authorities when the recipient pays for the service. A separate declaration must be filed.

Return liabilities must be paid in leu (MDL).

Penalties

Penalties are levied for a number of VAT offenses, including failure to register for VAT, failure to apply the reverse charge, late submission of a VAT return and late payment of VAT.

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| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Names | Belasting over de Toegevoegde Waarde (BTW) Wet op de omzetbelasting 1968 |
| Date Introduced | 1 January 1969 |
| European Union (EU) Member State | Yes |
| Administered by | The Ministry of Finance http://www.minfin.nl |
| VAT Rates | |
| Standard | 19% |
| Reduced | 6% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | NL1 2 3 4 5 6 7 8 9 B 01 |
| VAT Return Periods | Monthly (if the amount of VAT payable exceeds €7,000 quarterly) Quarterly (if the amount of VAT payable exceeds €1,883 annually) Annually (if the amount of VAT payable does not exceed €1,883 annually) |
| Thresholds | |
| Registration | None |
| Distance Selling | €100,000 |
| Intra-Community Acquisitions | €10,000 (for exempt taxable persons and nontaxable legal persons) |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in the Netherlands by a taxable person;

- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- The intra-Community acquisition of goods from another EU Member State by a nontaxable legal person in excess of the annual threshold (see the chapter on the European Union);
- Reverse charge services received by a taxable person and non-taxable legal entities in the Netherlands (that is, services for which the recipient is liable to pay the VAT); and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services, or intra-Community acquisitions or distance sales, in the course of a business, in the Netherlands. Taxable activities also include “carrying on a profession” or the “exploitation of tangible or intangible property in order to obtain income on a continuing basis.”

No VAT registration threshold applies in the Netherlands. A taxable person that commences activity must notify the VAT authorities of its liability to register.

Special rules apply to foreign or “non-established” businesses.

Group Registration

Taxable persons established within the Netherlands (including fixed establishments) may form a VAT group provided the members are closely bound by “financial, economic and organizational links.” The formation of a VAT group requires a decree from the Tax Office, which is issued after a written request. However, the Tax Office may also impose a VAT group decree on its own accord.

The effect of VAT grouping is to treat the members as a single taxable person. As a result, transactions between members of the VAT group are disregarded for VAT purposes. Members of a Dutch VAT group may file a single VAT return, or members may elect to file individually. Each member of a VAT group is jointly and severally liable for all VAT due.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of the Netherlands. The “reverse charge” applies generally to supplies of goods and services made by non-established businesses to taxable persons and other nontaxable legal persons established in the Netherlands, provided that Dutch VAT is due on these supplies. Under this provision, the taxable person or legal person that receives the supply must account for the VAT due. If the reverse charge applies, the non-established supplier is not permitted to account for VAT in the Netherlands. The reverse charge does not apply to supplies made to private persons.

A non-established business that makes supplies of goods or services in the Netherlands must register for VAT if it is liable to account for VAT on the supply. A non-established business must, therefore, register for VAT in the Netherlands if it makes any of the following supplies:

- Intra-Community supplies or acquisitions;
- Distance sales in excess of the threshold; and
- Supplies of goods and services that are not subject to the reverse charge.

A non-established non EU business must register for:

- Telecommunication services, electronic services, radio and TV broadcasting services or lease of movable goods to private individuals.

Tax Representatives

Non-resident businesses may register for VAT without appointing a tax representative. Businesses that are established outside the European Union are required to appoint a tax representative resident in the Netherlands to register for VAT in limited circumstances (for example, for distance sales made from another EU country). Non-established businesses, regardless of whether they are established in or outside the European Union) may also choose to appoint a representative. In some cases, having a resident tax representative may be advantageous (for example, for dealing with imports using the “postponed accounting system”).

Non-established businesses that do not appoint a representative must register at the Tax Office for Non-Resident Businesses in Heerlen, at the following address:

Belastingdienst/Particulieren/Ondernemingen Buitenland
 Postbus 2865
 6401 DJ Heerlen
 The Netherlands

Late Registration Penalties

No specific penalty is imposed for late registration. However, if the late registration results in the late payment of VAT or the late submission of VAT returns, penalties may be imposed.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including zero rate (0%). The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include intangible services supplied to another taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

Three rates of VAT currently apply in the Netherlands – the standard rate at 19%, the reduced rate at 6% and the zero rate. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

The following table sets out exempt supplies of goods and services, and supplies of goods and services taxed at a reduced rate. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 0% | Examples of Goods and Services Taxable at 6% |
|--|--|---|
| Supply of immovable property | Exports of goods | Foodstuffs |
| Medical services | Intra-Community supplies of goods | Books |
| Finance | Supplies to ships and aircraft used for international transportation | Paintings and other “cultural goods” |
| Insurance | | Goods and services used by the agricultural sector |
| Betting and gaming | | Passenger transport |
| Education | | Hotel accommodation |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed.

In the Netherlands, an invoice must be issued before the 15th day of the month following the month in which the supply takes place. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due, at the latest, on the day on which the invoice should have been issued. If the purchaser is not a taxable person, the tax becomes due on the date of the supply.

If the consideration is paid in full, or in part, before the invoice is issued, the actual tax is due on the date on which payment is received (for the amount received).

Prepayments

If the customer pays the consideration in installments or makes a prepayment, the supplier must issue an invoice for each installment before the date when it falls due or when it receives the prepayment. The time of supply is the date of the invoice.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month in which the acquisition occurred. If the supplier issues an invoice prior to this date, the time of supply is when the invoice is issued.

Imported Goods and Postponed Accounting

The basic time of supply for imported goods is the date of importation, or when the goods leave a duty suspension regime. However, taxable persons may delay payment of import VAT by applying for permission to use the postponed accounting facility. Under this facility, import VAT is reported on the taxable person’s VAT return (and recovered in the same tax period as input tax, depending on the taxable person’s partial exemption status – see Section F *Recovery of VAT by Taxable Persons*).

A non-established business must appoint a tax representative resident in the Netherlands to use the postponed accounting facility.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within the Netherlands, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must be kept in the accounts in order to support a claim for input tax.

Non-Deductible 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, if the value of the private benefit to an employee exceeds an amount of €227, excluding VAT per person per year.

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Private expenditure
 Business gifts (valued at more than €227 if the recipient could not have recovered the input VAT in its own right)
 Restaurant meals
 Home telephone costs
 Alcohol and tobacco

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire, lease, maintenance and fuel for vans and trucks
 Car hire, subject to special rules, as well as purchase, hire, lease, maintenance and fuel for cars, subject to special rules and to the €227 a year limit on employee expenses
 Conferences, seminars and training courses (restaurant meals are excluded)
 Advertising
 Taxis
 Business travel costs
 Business gifts (valued at less than €227 a year or if the recipient of the gift could have recovered the input VAT in its own right)
 Business entertainment (subject to the €227 a year limit on employee expenses)

Employee Expenses

A maximum limit of €227 annually applies to the value of expenses incurred per employee on which input VAT may be recovered, including private use of a company car, drinks, meals from a discounted company cafeteria and company parties, mobile phones and computers made available to employees at home. The €227 limit relates to the net cost or value of the expenses incurred, rather than the amount of VAT recovered.

The employer may recover input VAT on employee expenses in full throughout the year. At the end of the year the employer must calculate the average cost of expenses per employee. If the average cost of expenses per employee exceeds €227, all the VAT recovered on these expenses throughout the year must be repaid (not just the VAT on expenses in excess of the €227 limit). Broadly, the employer must distinguish between employees with and without a company car. The threshold of €227 is always exceeded with respect to employees with a company car.

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes.

In the Netherlands, the amount of input tax that a partially exempt business may recover is calculated in two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, on general business overheads) that may be allocated to taxable supplies and recovered. The calculation is a percentage based on the values of taxable and exempt supplies made in the period. The recovery percentage is rounded up to the nearest whole number.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person's partial exemption recovery percentage changes during the adjustment period.

In the Netherlands, the capital goods adjustment applies to the following assets for the number of years indicated:

- Immovable property (adjusted for a period of 10 years); and
- Movable property subject to depreciation for income tax (adjusted for a period of five years).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for immovable property and $\frac{1}{5}$ for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input VAT,

depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Adjustment is not made if it is insignificant (that is, less than 10% of the deducted amount for that specific year).

Refunds

If the amount of input tax recoverable in a period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A taxable person may claim a refund of the credit by submitting the VAT return for the period.

G. Recovery of VAT by Non-Established Businesses

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

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

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes see the chapter on the European Union.

Refund Application

The formal deadline for refund claims is 30 June of the year following the year when the input tax was incurred. However, it is possible to submit a claim within five years from the year when the input tax was payable. In the case of late claims, no appeal is possible against negative decisions.

Claims may be submitted in Dutch, English, French or German. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €213. For an annual claim the minimum amount is €27.

Applications for refunds of Netherlands VAT should be sent to the following address:

Belastingdienst/Particulieren/Ondernemingen Buitenland
Postbus 2865
6401 DJ Heerlen
The Netherlands

Repayment Interest

The Dutch VAT authorities have committed to make EU 8th and 13th Directive refunds within six months of the date when the claim is submitted for refund. If the refund is not made within this period, and the fault lies with the VAT authorities, the claimant is entitled to interest in addition to the repayment, at the government interest rate in force at the time.

H. Invoicing

VAT Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. It must be cross-referenced to the original VAT invoice.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left the Netherlands. Acceptable proof includes the following documentation:

- For an export, customs documentation, transport documentation, order forms and proof of payment issued by a foreign bank; and
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU Member State), plus a range of commercial documentation (such as purchase orders, transport documentation, proof of payment and contracts).

Foreign Currency Invoices

A VAT invoice must be issued in Euros (€). If an invoice is issued in another currency, the VAT amount must be indicated in Euros, using the daily conversion rate published by the European Central Bank.

I. VAT Returns and Payment

VAT Returns

VAT returns are submitted electronically in the Netherlands. They are submitted for monthly, quarterly or annual periods, depending on the amount of VAT payable.

Monthly VAT returns must be filed if the amount of VAT payable (that is, output VAT less input VAT) exceeds a threshold of €7,000 on a quarterly basis. Taxable persons that receive regular repayments of VAT may also file monthly VAT returns.

Quarterly VAT returns must be filed if the amount of VAT payable exceeds €1,883 annually.

Taxable persons that are liable to pay a VAT amount of less than €1,883 annually may file annual VAT returns.

The return must be filed by the last day of the month following the end of the reporting period, together with full payment.

Non-established businesses registered for VAT in Heerlen must file their VAT returns and pay VAT due before the last business day of the second month after the reporting period.

Return liabilities must be paid in Euros.

Penalties

Penalties are assessed for the late submission of a VAT return or for the late payment of VAT, in the following amounts:

- For the late submission of a VAT return, the maximum fine is €113;
- For the late payment of VAT, the maximum fine is 10% of the VAT due, up to a maximum fine of €4,537; and
- If the late payment is due to negligence or to dishonest conduct, fines in the range of 25% to 100% of the VAT payable may be imposed.

J. EU Declarations

INTRASTAT

A taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of its sales or purchases of goods exceeds the threshold. The threshold applies to Intra-Community supplies (“Dispatches”) and Intra-Community acquisitions (“Arrivals”) separately. Separate reports are also required for Arrivals and Dispatches.

The threshold for INTRASTAT Arrivals for the calendar year 2005 is €400.000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €400.000.

The INTRASTAT return period is monthly. The submission deadline is the 8th day following the return period. INTRASTAT declarations must be completed in Euros.

A penalty (at a maximum amount of €4,537) may be imposed for failure to comply with INTRASTAT filing and reporting obligations.

EU Sales Lists

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

ESLs are generally submitted on a calendar quarterly basis by the last day of the month following the end of the quarter.

Taxable persons that may file annual VAT returns (that is, whose annual VAT payable is less than €90) may also file annual ESLs.

Some taxable persons are also permitted to file simplified ESLs if all of the following conditions are met:

- the total amount of all supplies of goods and services, excluding VAT, within one year may not exceed €200.000;
- The total amount of intra-Community supplies of goods within one year is less than €15,000; and
- The taxable person’s intra-Community supplies do not include supplies of new means of transport.

If a business does not file an ESL on time, it receives a reminder. If the return is still not filed, the VAT authorities may impose a fine. The amount of the penalty depends on the number of successive omissions:

- At the first omission a fine of €113 is imposed;
- At the second and third omissions a fine of €227 is imposed; and
- A fourth or subsequent omission results in a fine of €1,134.

However, the VAT authorities may, under certain conditions, impose a maximum fine of €4,537 for missing ESL reports.

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A. At a Glance

| | |
|-------------------------------------|---|
| Name of the Tax | Goods and Services Tax (GST) |
| Date Introduced | 1 October 1986 |
| European Union (EU) Member State | No |
| Administered by | Inland Revenue http://www.ird.govt.nz |
| GST Rates | |
| Standard | 12.5% |
| Other | Zero-Rated, Exempt and Non-taxable |
| GST Return Periods | Monthly (taxable turnover exceeds NZ\$24 million and optional for other registered persons) Bi-Monthly (taxable turnover between NZ\$250,000 and NZ\$24 million) Six-Monthly (taxable turnover below NZ\$250,000) |
| GST Registration Number Format | Taxable persons use tax registration numbers (IRD number) for GST purposes |

| | |
|---|------------|
| Thresholds | |
| Registration | NZ\$40,000 |
| Recovery of GST by Non-Established Businesses | No |

B. Scope of the Tax

GST applies to the following transactions:

- The supply of goods or services made in New Zealand by a registered person; and
- The importation of goods into New Zealand, irrespective of the status of the importer.

Potential GST Developments

A Bill recently introduced in Parliament proposes to enable Inland Revenue to deregister non-residents who are not carrying on a taxable activity in New Zealand.

C. Who Is Liable

A “registered person” is any business entity or individual that makes taxable supplies of goods or services in the course of doing business in New Zealand.

The GST registration threshold is NZ\$40,000. The registration threshold applies in the following ways:

- Retrospectively to taxable turnover in the current month and the preceding 11 months; and
- Prospectively to taxable turnover in the current month and expected turnover in the following 11 months.

GST may be recovered prior to the incorporation of a company, provided certain criteria are met.

Voluntary Registration

A small business with taxable turnover of less than NZ\$40,000 a year may voluntarily apply to become a registered person.

Group Registration

Group registration is permitted for corporations or other taxable persons that are “under common control.” A corporation is “controlled” for these purposes if one or more persons own at least 66% of either the voting power in the corporation or its common market value interests.

Other taxable persons may form a group if any of the following control conditions is satisfied:

- One group member controls each of the others;
- One person (outside the group) controls all the members of the group; or
- Two or more persons carrying on a taxable activity in partnership control the members of the group.

A group must appoint a representative member. Group members making supplies outside the group must issue tax invoices if requested to do so. The representative group member must account for GST on all group members’ taxable activities and file returns. Group members must adopt the same taxable periods and accounting basis for GST purposes (see Section E *Time of Supply*). Group members are also jointly and severally liable for all GST liabilities.

Transactions between group members are not generally liable to GST. This provision applies on the condition that the supply is made to a group member that would have been entitled to input tax recovery if the supplier had not been a member of the group (see Section F *Recovery of GST by Taxable Persons*).

Branch or Divisional Registration

If a taxable person's business is organized in branches or divisions, it may register the divisions or branches separately for GST purposes. To register separately, a branch or division must maintain its own accounting system and it must either be in a separate location or carry out different activities from the rest of the legal entity. A branch or division that is separately registered must obtain its own GST registration number and complete a separate GST return. GST is charged on supplies made between branches and divisions that are registered separately and the rest of the legal entity.

Non-Established Businesses

A "non-established business" is a business that has no fixed establishment in the territory of New Zealand. A foreign or non-established business is obliged to register for GST if it makes taxable supplies in New Zealand that exceed NZ\$40,000 in any 12-month period. A non-established business may also register for GST voluntarily if its supplies are below the annual registration threshold.

Although a non-established business may voluntarily register for New Zealand GST where it is not making any supplies in New Zealand, a Bill recently introduced in Parliament proposes to enable Inland Revenue to deregister non-residents who are not carrying on a taxable activity in New Zealand.

Tax Representatives

A foreign business is not required to appoint a New Zealand resident tax representative in order to register for GST.

Deregistration

A taxable person that ceases to make taxable supplies must notify the New Zealand GST authorities within 21 days after ceasing operations. If the GST authorities are satisfied that the taxable person's operations are not expected to recommence within 12 months, they will cancel its GST registration.

A taxable person may deregister voluntarily if it can satisfactorily prove to the GST authorities that its taxable turnover in the following 12 months is expected to be less than NZ\$40,000.

Compulsory Reverse Charge

With effect from 1 January 2005, a compulsory reverse charge regime applies. The regime applies in the following circumstances:

- A supply of services is made by a non-resident to a resident;
- The supply would be taxable if made in New Zealand;
- The recipient of the supply is registered (or required to be registered); and
- The recipient makes taxable supplies that total less than 95% of the recipient's overall supplies.

The reverse charge is 12.5% of the consideration of the supply. An input tax credit may be claimed in respect of the reverse charge to the extent that the service was acquired for the principal purpose of making taxable supplies.

Late Registration Penalties

Penalties are assessed for a range of GST offenses, including late registration (see Section I *GST Returns and Payment*).

D. GST Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to GST. The standard rate of GST is 12.5%. Some supplies are zero-rated (taxed at 0%), but no other reduced rates apply.

In addition, some activities are exempt from GST. This means that no GST is charged, but the supplier does not have the right to deduct any related input tax (see Section F *Recovery of GST by Taxable Persons*).

The following table lists examples of goods and services that are zero-rated or exempt from GST. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Financial services (although some qualify for zero-rating)
Sales of donated goods by nonprofit organizations
Certain real estate transactions
The supply of precious metals

Examples of Goods and Services Taxable at 0%

Sale of a business as a going concern
Exported goods
Exported services and related services
Services performed outside New Zealand
The first sales of refined precious metals for investment purposes

Supplies of financial services made to business that make taxable supplies in excess of 75% of total supplies.

E. Time of Supply

The time when GST becomes due is called the “time of supply” or “tax point.” The general rule is that a supply takes place either when an invoice is issued or when payment is received by the supplier, whichever is earlier.

Taxable persons may opt to account for GST in one of the following ways: *the invoice basis, the payment basis or the hybrid basis*:

- Under the *invoice basis* of accounting a taxable person must account for GST when an invoice is issued, or on receipt of payment, whichever is earlier. Input tax is recoverable on the basis of invoices received (see Section F *Recovery of GST by Taxable Persons*).
- Under the *payments basis* of accounting, a taxable person must account for GST on the basis of payments received. Input tax is recoverable on the basis of invoices paid (see Section F *Recovery of GST by Taxable Persons*). A taxable person may use the payment basis of accounting if the total value of its tax-

able supplies in the previous 12 months did not exceed NZ\$1.3 million, or if its turnover is not expected to exceed this figure in the following 12 months; and

- Under the *hybrid basis* of accounting, a taxable person accounts for GST when an invoice is issued or a payment is received, whichever is earlier. Input tax is recoverable on the basis of invoices paid (see Section F *Recovery of GST by Taxable Persons*).

F. Recovery of GST by Taxable Persons

A taxable person may recover input tax, which is GST charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is GST charged on supplies made. Input tax includes GST charged on goods and services supplied within New Zealand and GST paid on imports.

A valid tax invoice or customs document must generally accompany a claim for input tax.

Legislation was passed in 2004 by the New Zealand Parliament that restricts the ability to claim input tax credits in respect of historic supplies acquired. With effect from 1 April 2005, a taxable person will effectively be restricted from claiming input tax credits in respect of supplies that are greater than two years old.

Non-Deductible 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).

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Nonbusiness expenditure
50% of business entertainment expenses

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease, hire, maintenance and fuel for cars, vans and trucks
Conferences and seminars
Advertising
Accommodation
Mobile phones
Business gifts
Travel expenses

Adjustments

A registered person may recover GST in full if it acquires goods and services principally for business purposes. GST is not recoverable for goods and services that are acquired principally for nonbusiness purposes or principally for making exempt supplies.

If goods and services are acquired principally for making taxable supplies but are also used for making exempt supplies, an output

tax adjustment is required to the extent that the goods and services are used for making exempt supplies.

If goods and services are acquired principally for making exempt supplies or for nonbusiness use, an input tax adjustment is required to the extent that the goods and services are used for making taxable supplies.

One of the following methods of allocation may be used for making the input tax adjustment:

- A general pro rata method whereby the taxable person's taxable ratio is based on the value of taxable supplies made compared with total supplies made. The taxable ratio is applied to the total amount of input tax incurred;
- A direct attribution method whereby the taxable person's input tax is allocated to taxable and nontaxable supplies made. Input tax directly related to taxable supplies is deductible in full, while input tax directly related to nontaxable supplies is not deductible. The general pro rata is applied to the remaining input tax that is not directly related to taxable or nontaxable supplies; or
- A special calculation method agreed upon with the New Zealand GST authorities.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. An output tax adjustment is required for capital goods purchased by a business that are used privately. Similarly, an input tax adjustment is required for capital goods used by partially exempt businesses to make taxable supplies. The calculation is based on the straight-line depreciation of the asset (based on tables published by the Inland Revenue) applied to the lower of the cost or the current market value of the asset.

Refunds

If the amount of input GST recoverable in a period exceeds the amount of output GST payable, a refund may be claimed. GST refunds are generally made within 15 working days of the Inland Revenue receiving a correct return.

G. Recovery of GST by Non-Established Businesses

Only entities that are GST registered and making taxable supplies in New Zealand may recover GST incurred on goods and services the entities acquire. Refunds are not made to foreign entities that are not registered for GST.

H. Invoicing

Tax Invoices and Credit Notes

A New Zealand registered person must generally provide a tax invoice for all taxable supplies made to other taxable persons within 28 days of a tax invoice being requested. A tax invoice is generally required to support a claim for deduction of input tax for items that cost more than NZ\$50.

A credit note may be used to reduce the GST charged and reclaimed on a supply if the value originally charged was incorrect. A credit note must indicate the reason why it was issued and

must refer to both the GST originally charged and the corrected amount.

Foreign Currency Invoices

Invoices must be issued in New Zealand dollars (NZ\$). If a tax invoice is issued in foreign currency, the values used for GST purposes may be converted to New Zealand dollars based on the exchange rate in effect at the time of supply.

I. GST Returns and Payment

GST returns are generally submitted bimonthly. There are two cycles of bimonthly returns in order to stagger submission dates. A taxable person may request a change in its GST return cycle to ease administration.

A registered person whose taxable turnover exceeds NZ\$24 million in a 12-month period must submit GST returns monthly. Other taxable persons may opt to submit GST returns monthly if they receive regular repayments of GST, or if they find it easier to account for GST on a monthly basis.

A registered person whose annual taxable turnover does not exceed NZ\$250,000 may submit GST returns six-monthly.

GST return periods generally end on the last day of a month. However, taxable persons may request different periods to align with their accounting records. GST returns must be submitted, together with payment of any GST due, by the last business day of the month following the end of the return period. The GST return form indicates the due date for each return.

Penalties

A penalty is assessed for the late payment of GST. A penalty of 1% of the tax due is assessed on the day after the due date. If the tax remains outstanding, further penalties apply:

- 4% of the tax due 7 days after the due date; and
- A further 1% of the tax due each month that the tax remains unpaid.

Penalties are also assessed for underpayments of GST. The “shortfall” penalty is assessed as a fixed percentage of the tax due, depending on the nature of the error, in the following amounts:

- Lack of reasonable care – 20% of the tax due;
- Gross carelessness – 40% of the tax due;
- Tax evasion – 150% of the tax due;
- Unacceptable interpretation of the law – 20% of the tax due; and
- Adopting an abusive tax position – 100% of the tax due.

In addition, interest is calculated for underpayments of GST. The current rate of interest is 11.93% for underpayments. In addition, the GST authorities pay taxable persons interest on overpayments of GST. The current rate of interest is 4.83% for overpayments. Interest rates are subject to change.

A range of GST offenses are subject to fines and imprisonment, depending on the offense committed. The maximum fine is NZ\$50,000.

NICARAGUA

Please direct all inquiries regarding Indirect Taxes in Nicaragua to Rafael Sayagues or Hans Erich Simonsen based in the Costa Rica office.

Indirect Tax Contacts

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 21 December 1984 (redefined 6 May 2003) |
| European Union (EU) Member State | No |
| Administered by | The Ministry of Finance http://www.dgi.gob.ni |
| VAT Rates | |
| Standard | 15% |
| Reduced | 10% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | National Tax Registry Number (known as the "RUC") |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | None |
| Special VAT Filing | Gross annual income below C\$480,000 (Nicaraguan Cordobas) |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services within Nicaragua; and
- The importation of goods.

C. Who Is Liable

No separate VAT register exists in Nicaragua. All businesses must register as taxpayers. The taxpayer identification number (RUC) is also used for VAT purposes. A taxable person for VAT purposes is any entity or individual that carries out taxable operations.

Individuals whose gross income from the sale of goods or rendering of services does not exceed C\$480,000 may file a special VAT return and pay VAT on a presumptive base.

Group Registration

Grouping of separate legal entities for VAT purposes is not allowed under the Nicaraguan VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses and Tax Representatives

A “non-established business” is a business that has no fixed establishment in the territory of Nicaragua. A non-established business must, in principle, register for VAT if it supplies goods or services in Nicaragua. In order to register for VAT, a non-established business must provide the VAT authorities with a copy of its articles of incorporation, legalized by a Nicaraguan consulate, together with an official translation into Spanish.

D. VAT Rates

The standard rate of VAT (15%) applies to all supplies of goods or services, unless a specific provision applies the zero rate, a reduced rate or an exemption. Unlike zero-rated activities, exempted activities do not give rise to a right of input tax (see Section F *Recovery of VAT by Taxable Persons*).

A reduced rate of 10% applies to supplies of cement. This rate is gradually being increased to meet the 15% rate. For 2005, the rate will be 12%, and for 2006, 15%.

The following table lists examples of supplies at the zero or reduced rates and exempt supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

| | |
|--|--|
| Live animals and fresh fish | The importation of goods, machinery and equipment for use by the media |
| Domestically produced un-processed fruit and vegetables | Books, newspapers and magazines |
| Basic foodstuffs, such as corn tortillas, rice, beans and | Medicines and vaccines |
| Certain dairy products | Basic foodstuffs, such as eggs and meat |
| Used goods (unless imported) | Local production of sanitary protection products and toilet paper |
| Crude oil | Matches, kerosene, butane and electricity |
| Real estate transactions | Veterinary product |
| Life and health insurance | Insecticides, fungicides, fertilizers and seeds |
| Domestic transport | |
| Education | |
| Certain Financial services | |
| Construction of social housing (as defined by law) and leasing unfurnished accommodation | |
| Equipment used for agriculture | |
| Irrigation for agriculture and and forestry | |
| Electricity used for irrigation | |

Examples of Supplies of Goods and Services Taxable at 10%

Gray cement

Examples of Zero Rated Activity

Exportation of goods

E. Time of Supply

The time when the taxable event is considered to have taken place, and when VAT becomes due, is called the “tax point.” According to the Fiscal Equity Law, for VAT purposes, the taxable event occurs for different types of supplies, as follows:

Goods

The time of supply for the sale of goods is either when the invoice or corresponding legal document is issued, or on delivery of the goods.

Services

The time of supply for the rendering of services is when the purchaser becomes legally liable for payment.

Imported Goods

The time of supply for the importation of goods is when the goods are made available to the importer at the fiscal warehouse.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT paid on the purchase of goods and services used to generate other goods and services subject to VAT. Input tax is generally credited against output tax, which is VAT charged or collected on the sale of goods or the rendering of services. To deduct or credit input tax, all of the following conditions must be satisfied:

- The goods or services must be part of the economic process of transferring goods or providing services. This provision includes zero-rated operations;
- The payment made must meet the deductibility requirements for Income Tax Purposes, even if the taxpayer is not subject to Income Tax; and
- The payment must be adequately documented.

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxpayer may carry forward VAT credits; to offset against output tax in subsequent VAT periods. Exporters and taxpayers that make supplies to exempted entities or individuals may use their excess credits to offset against other taxes (such as income tax) and they may eventually request a refund.

G. Recovery of VAT by Non-Established Businesses

Nicaragua does not refund VAT incurred by foreign or non-established businesses unless they are registered as Nicaraguan VAT taxpayers.

Diplomats and International Organizations

Diplomatic consular delegations, and international organizations and agencies, are entitled to reimbursement for VAT paid in Nicaragua.

H. Invoicing

VAT Invoices and Credit and Debit Notes

A taxable person must generally provide a VAT invoice for all taxable activities. An invoice is generally necessary to support a claim for input tax credit.

A credit note may be used to reduce the VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, because a discount or bonus is granted, there is a change in price or the goods are returned). A credit note must generally carry the same information as a tax invoice.

VAT is not chargeable upon supplies of exported goods.

Foreign Currency Invoices

Transactions must be registered in Nicaraguan cordobas (C\$).

I. VAT Returns and Payment

VAT Returns

VAT returns are generally submitted on a monthly basis. Monthly returns must be submitted by the 15th day of the month following the end of the return period. Payment in full is due on the same date.

Return liabilities must be paid in Nicaraguan cordobas.

Penalties

Interest is charged on the tax due at a rate of 5% per month for the late submission of a VAT return.

Penalties apply to a range of other VAT errors. The amount assessed varies from 50% to 200% of the VAT that should have been charged or withheld.

A person who commits tax fraud may be punished by imprisonment.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Merverdiavgift |
| Date Introduced | 1 January 1970 |
| European Union (EU) Member State | No |
| Administered by | Ministry of Finance http://www.skatteetaten.no |
| VAT Rates | |
| Standard | 25% |
| Reduced | 11%, 7% |
| Other | Zero-Rated (or Exempt with Credit) and Exempt |
| VAT Number Format | 973 004 123 MVA |
| VAT Return Periods | Bi-Monthly (with the possibility for shorter periods) Annual (for farmers and fishermen and optional if taxable turnover does not exceed NOK 1million) |
| Thresholds | |
| Registration | NOK 50,000 NOK 140,000 (for some charitable and nonprofit organizations) |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Norway by a taxable person;
- Withdrawals of goods or services from taxable business for private use or for purposes that fall outside the scope of the VAT Act;
- Reverse charge services received by a Norwegian taxable person or public body; and
- The importation of goods, irrespective of the status of the importer.

The application of delivery terms affect the deemed place of supply. The supply of services in Norway related to a supply of goods delivered outside of Norway may result in both the goods and the services being deemed to be supplied in Norway.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services in Norway, in the course of a business.

The VAT registration threshold is NOK 50,000 in a 12-month period. However, for charitable bodies and some nonprofit organizations the threshold is NOK 140,000. Special rules also apply to certain partnerships, trading companies and corporations.

Voluntary Registration

Norwegian VAT legislation provides an option for voluntary registration for VAT purposes for certain activities. The most practical option to tax is for the lease of property for use by a business,, which is then subject to VAT.

Group Registration

The Norwegian VAT law provides that “collaborating companies” may form a VAT group. Grouping applies if one or more collaborating companies owns at least 85% of the capital in each company and if the companies are jointly registered for VAT. Special issues arise for groups of companies with foreign presence.

The VAT authorities must be notified before a VAT group may be formed or dissolved.

Members of a VAT group are regarded as a single business liable to payment of VAT. All the participating companies are jointly and severally liable for the correct payment of tax. Transactions between companies within a VAT group are not generally subject to VAT. However, the withdrawal of taxable goods or services from a taxable part of the group’s business for use in an exempted part of the group’s business is liable to VAT.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Norway. A non-established business must register for VAT if it makes taxable supplies of goods or services in Norway in excess of the registration threshold.

Tax Representatives

If a non-established business is obliged to register for VAT in Norway, it must appoint a resident tax representative, unless it maintains a place of business or a registered office in Norway.

Late Registration Penalties

No specific penalty applies to late VAT registration in Norway. However, penalties are assessed if, as a result of the late registration, a taxable person submits a late VAT return or pays VAT late.

D. VAT Rates

The term “taxable supplies” refers to all supplies of goods and services that fall within the scope of the Norwegian VAT Act, including zero-rated supplies. In Norway, the term “exempt with credit” is also used for zero-rated supplies. This means that no VAT is chargeable, but the supplier may recover related input tax. The terms “exempt” and “outside the scope” are used for supplies of goods and services that are not liable to tax, and which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Norway, the standard rate is 24%, the reduced rate is 12% and a zero rate (0%) applies. With effect from 1 March 2004, a reduced rate of 6% applies to certain services. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services (also called Outside the Scope of VAT) | Examples of Goods and Services Taxable at 0% | Examples of Goods and Services Taxable at 11% | Examples of Services Taxable at 7% |
|---|---|--|--|
| Financial services | Exports of goods | Food (excluding alcohol and tobacco and supplies in restaurants) | Domestic passenger transportation services (excluding lease of vehicles as such) |
| Insurance | Supplies to foreign ships, and aircraft and ships involved in foreign trade | | |
| Accommodations | Books and newspapers | | |
| Education | Transfer of a business as a going concern | | |
| Lease of residential property | International transportation services (goods and passengers) | | |
| Medical services | | | |
| Real estate transactions | | | |
| Cultural and sporting events | | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when they are delivered; the basic time of supply for services is when they are performed. The time of payment does not generally affect the time of supply. If a customer makes an advance payment, the main rule is that the tax point is still the date of delivery of the goods or the date of performance of the services.

It is possible for the supplier to defer the time of supply by issuing an invoice. An invoice may be issued up to 30 days after the date of delivery of goods or performance of services. The invoice date then becomes the tax point. If the invoice date is more than 30 days after the date of delivery of the goods or the performance of a service, the tax point is the date of delivery or performance.

Continuous Supplies of Services

VAT on services delivered on a continuous basis (such as electricity or telecommunications services) may be accounted for prior to delivery. These services may be invoiced every second month, making the invoice date the tax point, according to administrative practice.

Reverse Charge Services

Norwegian businesses and public institutions must self-assess for VAT on taxable services purchased from abroad, using the “reverse charge” mechanism. Under the reverse charge, the purchaser self assesses for VAT at the appropriate rate. The self-assessed tax is treated as input tax and recovered (depending on the purchaser’s partial exemption status. See section F *Recovery of VAT by Taxable Persons*). The reverse charge does not apply for supplies made to private individuals.

Only services that may be “delivered from a remote location” are covered by the reverse charge procedure. The definition of this term is important in deciding whether it is the purchaser that is obliged to charge and pay VAT, or whether it is the supplier that has to register for VAT and charge VAT.

The phrase “delivered from a remote location” is understood to mean that, by virtue of the nature of the service, its execution or delivery may be linked to a particular physical place only with difficulty.

Taxable persons record self-assessed VAT as output VAT in the VAT return. If the self-assessed VAT is deductible as input tax (see Section F *Recovery of VAT by Taxable Persons*) it may be deducted on the same VAT return. Nontaxable persons that are subject to the reverse charge must file a special VAT return form every quarter. If the VAT amount payable is less than NOK 500, no VAT return need be filed by the non-taxable person.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Norway, VAT paid on imports of goods and VAT self-assessed for reverse charge services received from outside Norway.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice. Input VAT that is not properly documented may not be deducted.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not for use in the business that is subject to VAT (for example, goods acquired for private use).

In addition, input tax may not be recovered for some items of business expenditure. The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Tobacco and alcohol
 Personal expenses
 Business entertainment
 Restaurant meals
 Purchase and maintenance of passenger vehicles
 Business gifts costing more than NOK 50

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising
 Purchase, lease and hire of vans and trucks not used for passenger transportation
 Fuel for vans and trucks not used for passenger transportation
 Conferences
 Business use of home telephone and mobile phones
 Passenger transportation services

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Norwegian taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as taxable supplies for these purposes.

Input VAT incurred on purchases that are used for both taxable and exempt supplies must be apportioned to reflect the supplies that carry the right to deduction and those that do not. The apportionment may also be calculated based on the ratio of taxable supplies to exempt supplies in the previous financial year, if the previous financial year is representative of the normal pattern of trading.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund claim is triggered automatically if the VAT return shows a VAT credit. Refunds are generally processed within three weeks from the date when the VAT authorities receive the VAT return. The VAT authorities pay interest on late-paid refunds, at a rate of 0.5% per month.

G. Recovery of VAT by Non-Established Businesses

The Norwegian VAT authorities refund VAT incurred by businesses that are neither established in Norway nor registered for VAT there. A non-established business is allowed to claim Norwegian VAT to the same extent that a Norwegian taxable person may deduct input VAT incurred in the course of a similar business in Norway.

Norway does not apply the reciprocity principle to refunds. Therefore, it does not exclude claimants based on the country where they are established.

Refund Application

A claimant must submit the following documentation to obtain a VAT refund:

- Application Form RF 1032;
- The original VAT invoices;
- A power of attorney if the claimant uses the services of a third party to recover the VAT;
- A certificate of taxable status obtained from the competent tax authorities in the country in which the claimant is established. The certificate, which is valid for 12 months from the date of issue, must be completed, signed and stamped by the local tax authorities; and
- If the claim relates to goods that are located in Norway at the time of submission of the claim form, an explanation for the basis on which the refund is requested.

The deadline for submitting applications is 30 June following the claim year. This deadline is strictly enforced. The forms must be completed in Norwegian, Swedish, Danish or English. The claim period is a minimum of a calendar quarter and a maximum of one calendar year. The minimum claim amounts are NOK 2,000 for a quarter and NOK 200 for an annual claim.

Applications for refunds of Norwegian VAT may be sent to the following address:

Østfold fylkesskattekontor
Postboks 430
1502 MOSS
Norway

Repayment Interest

Claims for VAT refunds are generally met within six months. Interest is not paid on late refunds.

H. Invoicing

VAT Invoices and Credit Notes

A Norwegian taxable person must generally provide a VAT invoice for all taxable supplies made and for exports. Invoices must support claims for input tax made by Norwegian taxable persons and VAT refunds claimed by non-established businesses.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The document must be clearly marked "credit note" and it must refer to the original invoice.

Proof of Exports

Goods and services exported to countries outside Norway, and supplied to the Norwegian areas of Svalbard and Jan Mayen, are exempt from VAT with input tax credit. To qualify as VAT-free, the supplier must prove that the goods have been exported. Suitable proof includes the following documents:

- The Customs Single Administrative Document; and
- Shipping documents or the import declaration from the country of import.

Foreign Currency Invoices

If an invoice is issued in a foreign currency, the VAT must be stated in Norwegian kroner (NOK) using the official exchange rate for the date of the invoice. No other exchange rate may be used for VAT purposes. Other amounts shown on the invoice may be stated in other currencies.

I. VAT Returns and Payment

VAT Returns

In general, Norwegian taxable persons file bimonthly VAT returns. However, farmers and fishermen must file annually. Businesses with taxable turnover of less than NOK 1 million may opt to file annual returns.

To ease cash flow, businesses that receive regular VAT refunds may request shorter VAT return periods. Taxable persons must contact the appropriate VAT office to register for annual returns or for permission to use shorter VAT return periods.

The VAT due for each period must be reported, and paid in full, within one month and ten days after the end of the VAT period. Return liabilities must be paid in Norwegian kroner.

Penalties

A penalty interest is assessed for late payment of VAT. The interest rate is decided twice a year by decree issued by the Ministry of Finance. The interest rate as of 1 January 2005 is 12.25 % yearly, with a minimum penalty of NOK 100. The interest rate was last changed on 1 January 2004. Prior to this date, the rate was 15%.

An additional penalty of up to 100% of the tax due for a period may be imposed on taxable persons that willfully or negligently contravene the provisions of the VAT Act. Penalties may also be assessed for failing to submit VAT returns.

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A. At a Glance

Name of the Tax

Sales Tax

Date Introduced

1 November 1990

Administered by

The Central Board of Revenue
<http://www.cbr.gov.pk>

| | |
|--|--|
| Sales Tax Rates | |
| Standard | 15% |
| Other | Zero-Rate and Exempt |
| Sales Tax Number Format | 11-11-1111-111-11 |
| Sales Tax Return Periods | Monthly |
| Thresholds | |
| Registration | PR 5 million (manufacturers) PR 5 million (retailers) |
| Recovery of Sales Tax by Non-Established Businesses | No |

B. Scope of the Tax

Sales Tax applies to the following transactions:

- Taxable supply of goods made in Pakistan in the course of a taxable activity carried on by a taxable person;
- Taxable import of goods into Pakistan; and
- Rendering services, as specified by law.

Services liable to Sales Tax include the following activities performed in Pakistan:

- Services provided by marriage halls, lawns, clubs and caterers;
- Services provided by hotels;
- Services provided by customs agents, ship chandlers and stevedores;
- Personal services provided by beauty parlors, weight-loss and beauty clinics;
- Services provided by laundries and drycleaners;
- Courier services; and
- TV and radio advertising, excluding public service messages and government health education announcements.

On the following excisable goods and services, the central excise duty is levied and collected using the sales tax mechanism:

- Edible oil;
- Vegetable ghee and cooking oil;
- Advertising on closed circuit TV;
- Advertising on cable TV networks;
- Travel by air;
- Travel by train in air-conditioned sleeper class;
- Travel by train in air-conditioned parlor class (sitter);
- Travel by train in first class sleeper;
- Carriage of goods by air;
- Services rendered by shipping agents; and
- Services rendered by persons engaged in telecommunication work in respect of telephone, telegraph, telex, fax and similar supplies (exclusions apply).

C. Who Is Liable

A “taxable person” is a business that is obliged to register for Sales Tax, including:

- Manufacturers whose taxable turnover in the preceding 12 months exceeded PR 5 million;
- Retailers whose taxable and nontaxable turnover in the preceding 12 months exceeded PR 5 million;
- Importers;

- Wholesalers (including dealers) and distributors; and
- Businesses that supply taxable services.

Sales tax registration is mandatory for every taxable person. Supplying taxable goods without a sales tax registration is tax fraud.

Special Procedure for Commercial Importers

Persons registered exclusively as Commercial Importers are required to pay advance output tax at the rate of 15% on a minimum “deemed value addition” based on the assessed import value, inclusive of customs duty. The rate of “deemed value addition” is 10% and this amount is in addition to the normal sales tax (input) payable at the import stage. If the actual value addition at the time of the sale of the imported goods is less than 10%, the advance output tax is treated as constituting a final sales tax liability and would not be adjustable.

Special Procedure for Retailers

Persons registered exclusively as Retailers must pay sales tax at the rate of 15% on a minimum “deemed value addition” on their purchases. The general rate of “deemed value addition” is 10% of purchases. However, lower rates have been prescribed for certain retail trades.

Deregistration

A business that ceases operations must cancel its Sales Tax registration.

Late Registration Penalties

A penalty of PR 10,000 or 5% of the tax due (whichever is greater) is assessed for failure to register for Sales Tax.

D. Sales Tax Rates

The terms “taxable supplies” refer to supplies of goods and services and to imports that are liable to Sales Tax. The standard rate of Sales Tax is 15%, which is imposed on the value of the supply. However, in certain cases, the value of the supply of certain goods is based on the Manufacturer’s Retail Price (not the sales price). Export supplies are zero-rated (that is, taxed at 0%). Some activities are exempt from Sales Tax. This means that no Sales Tax is chargeable but the supplier has no right to claim input tax on related purchases (see Section F Recovery of Sales Tax by Taxable Persons).

The following table lists examples of exempt and zero-rated goods and goods taxed based on the Manufacturer’s Retail Price. This list is not exhaustive.

Examples of Exempt Supplies of Goods

Agricultural products including milk, eggs, fish, meat and fresh vegetables
 Pharmaceuticals
 Newspapers and books
 Educational and scientific material

Examples of Zero-Rated Supplies of Goods

Import and supply of plant and machinery
 Exports
 Supplies to diplomats, diplomatic missions, privileged persons and privileged organizations

Examples of Exempt Supplies of Goods

Computer hardware, software, peripherals and accessories

Equipment for fighting AIDS and cancer

Examples of Zero-Rated Supplies of Goods

Supplies made under international tenders

Supplies and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan

Examples of Goods Taxed based on the Manufacturer's Retail Price

Fruit juices and vegetable juices

Ice cream

Aerated water or beverages and drink syrups

Cigarettes

E. Time of Supply

The time when Sales Tax becomes due is called the "time of supply" or "tax point." Generally this is the earlier of when goods are delivered (or services performed) or when payment is received.

Imported Goods

The time of supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of Sales Tax by Taxable Persons

A taxable person may recover input tax, which is Sales Tax charged on goods and taxable services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes Sales Tax paid on goods and services purchased in Pakistan and on goods imported into Pakistan, as well as the central excise duty levied and collected using the sales tax mechanism.

Input tax must generally be claimed in the month when the invoice is issued. However, for electricity and gas supplies, the input tax must be claimed in the month when the invoice is paid. A separate claim must be made for input tax that is not claimed in the correct tax period.

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out items of expenditure for which input tax is not deductible.

Examples of Items for which Input Tax Is Non-Deductible

Purchases used for non-business purposes

Business and staff entertainment

Business gifts

Purchase of vehicles

Refunds

If the amount of input tax in a Sales Tax period exceeds the output tax in the same period, the excess credit may be carried forward to offset output tax in the next Sales Tax period. If the credit is not used up within 6 months, the balance is refundable.

G. Recovery of Sales Tax by Non-Established Businesses

Pakistan does not refund Sales Tax incurred by foreign businesses that are neither established nor registered for Sales Tax in Pakistan.

H. Invoicing**Sales Tax Invoices and Credit Notes**

A taxable person must generally provide a Sales Tax invoice for all taxable supplies made. A simplified tax invoice is required for retail sales.

A Sales Tax invoice is generally necessary to support a claim for input tax credit.

A credit note may be used to reduce the Sales Tax charged and reclaimed on a supply of goods or services if there is a valid adjustment. The document issued must be clearly marked "credit note," must detail the reason for the adjustment and must refer to the original Sales Tax invoice for the supply.

Proof of Exports

Exports of goods are zero-rated for Sales Tax. However, to qualify as Sales Tax-free, export supplies must be supported by evidence that the goods have left Pakistan. The evidence required includes the following documents:

- A copy of bill of export authenticated by customs;
- The bill of lading or airway bill;
- The original invoices;
- The bill of entry;
- A stock or inventory statement; and
- Any other business records related to the exported goods.

Foreign Currency Invoices

If a Sales Tax invoice is issued in a foreign currency, the amounts must be converted to pak rupees (PR). The conversion must be calculated in accordance with the exchange rate and foreign exchange regulations issued by the State Bank of Pakistan.

I. Sales Tax Returns and Payment**Sales Tax Return**

All taxable persons are required to file monthly returns. The return must be filed, together with full payment, by the 15th day of the month following the end of the return period.

Penalties

A penalty of PR 5,000 is assessed for the late submission of a Sales Tax return. However, if the return is filed within 15 days of the due date, penalty is charged at the rate of PR 100 per day.

A penalty of PR 5,000 or 3% of the tax due (whichever is the greater) is assessed for the following offenses:

- Failure to issue a Sales Tax invoice;
- Unauthorized issue of a Sales Tax invoice;
- Failure to notify changes related to the taxable person's details or taxable activity;
- Late payment of Sales Tax; and
- Repeated underdeclarations of Sales Tax.

A penalty of PR 10,000 or 5% of the tax due (whichever is the greater) is assessed for failure to maintain accounting records.

A penalty of PR 25,000 or 100% of the tax due (whichever is the greater) is assessed for tax fraud, falsifying records, making false statements and declarations, and similar offenses.

A penalty of PR 2,500 or 3% of the tax due (whichever is the greater) is assessed for other Sales Tax offences.

A penalty of PR 25,000 may be imposed on the chief executive of a corporate body or an association of persons for certain Sales Tax offences.

Interest

In addition to any penalty, interest (referred to as “additional tax”) is chargeable at the rate of 1% per month or part of a month for the following offenses:

- Late payment of Sales Tax;
- Overclaimed input tax;
- Incorrect claim for a Sales Tax refund; and
- Incorrect application of zero-rating.

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A. At a Glance

Name of the Tax

Value Added Tax (VAT)

Local Name

Impuesto a la Transferencia de Bienes Corporales Muebles y la Prestación de Servicios

| | |
|---|---|
| Date Introduced | 22 December 1976 |
| European Union (EU) Member State | No |
| Administered by | The Ministry of Finance http://www.dgi.gob.pa |
| VAT Rates | |
| Standard | 5% |
| Higher | 15% |
| Other | Exempt |
| VAT Number Format | National Tax Registry Number (known as the “RUC”) |
| VAT Return Periods | Monthly (Class 1 Taxpayers – income in excess of \$5,000 a month) Quarterly (Class 2 Taxpayers – income between \$3,000 and \$5,000 a month) |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods made in Panama by a taxable person;
- The leasing of movable goods located in Panama; and
- Supplies of services;
- The importation of goods from outside Panama, irrespective of the status of the importer.

C. Who Is Liable

A taxable person for VAT purposes is any entity or individual that supplies goods and services in the course of doing business in Panama. Taxable persons that are designated as withholding agents for VAT must appoint a legal representative. All persons must register as taxpayers and no separate register of VAT taxpayers exists.

Group Registration

Panama does not allow entities controlled by the same economic group to file a single VAT return.

Non-Established Businesses and Tax Representatives

A “non-established business” is a business that has no fixed establishment in the territory of Panama. A non-established business is obliged to register for VAT if it supplies goods in Panama. To register, a non-established business must file a registration form. A foreign corporation must also submit a copy of its articles of incorporation, legalized by the Panamanian Consul, together with an official translation in Spanish.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods that are liable to VAT. The term “exempt supplies” is used for supplies of

goods that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Panama, three rates of VAT currently apply – the standard rate at 5%, 10% for supplies of alcoholic beverages as liquors, beers and 15% for cigarettes. The standard rate applies to all supplies of goods and services, unless a specific provision applies the higher rate or an exemption. The following table lists examples of exempt supplies of goods. This list is not exhaustive.

Examples of Exempt Supplies of Goods

| | |
|---|--|
| Supplies made by agricultural producers | Supplies of goods made within a free zone in Panama |
| Unprocessed fish, meat and game supplied by nonindustrial fishermen and hunters | Supplies of movable goods within an authorized customs warehouse |
| Exported goods | Oil and related products subject to tax under Article 1057r of the tax law |
| Medical and pharmaceutical products | Groceries |
| Books | Hand tools, fertilizers, insecticides, fungicides and similar products used in agriculture |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.”

For a sale of goods the tax point is when the invoice is issued or the goods are supplied, whichever is earlier. For services, the tax point is when the invoice is issued or the services rendered or at the date of payment, whichever is earlier. For a lease of movable property, the tax point is when the parties to the lease enter into the contract.

For supplies of goods made by a company to a manager or legal representative of the company for his or her personal consumption, the tax point is the earlier of when the goods are delivered or when the supply is recorded.

Imported Goods

The time of the supply for imported goods is when the customs return is filed.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on services and supplies made. Input tax includes VAT charged on goods supplied and services within Panama and VAT paid on imports. A valid tax invoice or customs document must generally accompany a claim for input tax credit.

Refunds

If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable, the taxable person earns an input

VAT credit. The credit may be carried forward to offset output tax in the subsequent VAT period. If it is not possible to offset the input tax credit during the following period, the taxable person may use the excess to offset payment of its income tax liability. VAT credits are not refunded.

VAT-Free Purchases by Frequent Exporters

A frequent exporter that regularly has VAT credits may request a document called a “cancellation certificate” from the VAT authorities, to help ease cash flow. The exporter may use the cancellation certificate to purchase goods VAT-free, in proportion to the tax credit generated by its export activities.

G. Recovery of VAT by Non-Established Businesses

Panama does not refund VAT incurred by foreign or non-established businesses that are not registered for VAT there.

H. Invoicing

VAT Invoices and Credit and Debit Notes

A taxable person must generally provide a VAT invoice for all taxable services and supplies made, including exports. An invoice is generally necessary to support a claim for input tax credit. If the nature of a business makes it impractical for a taxable person to issue tax invoices, the VAT authorities may authorize the use of cash registers and computerized systems to issue receipts instead of invoices.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply if the value is reduced for any reason (for example, if the price changes or goods are returned due to a discount or bonus). A credit note must generally carry the same information as a tax invoice.

Exports

VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that confirm that the goods have left Panama, such as customs documents, export invoices and copies of bills of lading.

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, the amounts must be converted into Panamanian Balboas (B/), or US dollars (\$).

I. VAT Returns and Payment

VAT Returns

Class 1 taxpayers are persons whose average income exceeds \$5,000 per month. Class 1 taxpayers must submit VAT returns monthly. Monthly returns must be submitted by the 15th day of the month following the end of the return period. Payment in full is due on the same date.

Class 2 taxpayers are persons whose average income is between \$3,000 and \$5,000 per month. Class 2 taxpayers must submit VAT returns quarterly by the 15th day of the month following the end of the return period. Payment in full is due on the same date.

Return liabilities must be paid in Panamanian Balboas or US dollars.

Penalties

If a taxpayer does not pay VAT on time, a penalty of 10% of the VAT due plus interest at a rate of 1% is applied.

Penalties for VAT offenses may vary from five to ten times the amount of undeclared VAT.

Criminal tax fraud is punishable by a term of imprisonment for a period of between two and five years.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 1 July 1992 |
| European Union (EU) | |
| Member State | No |
| Administered by | The Finance Administration http://www.hacienda.gov.py |
| VAT Rates | |
| Standard | 10% and 5% |
| Other | Exempt |
| VAT Number Form | 800 and 8001 |
| Tax ID | The Fiscal Number (the format is alpha and numeric) |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | None (according to the new Law 2421/2004) |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Paraguay by a taxable person; and
- The importation of goods from outside Paraguay, irrespective of the status of the importer.

C. Who Is Liable

A VAT taxpayer is any business entity or individual that makes taxable supplies of goods or services in excess of the registration threshold in the course of doing business in Paraguay.

New tax legislation (Law 2421/04) is in the process being implemented. Under the proposed law, no registration thresholds limits apply.

The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Paraguay.

Group Registration

VAT grouping is not allowed under the Paraguayan VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Paraguay. A non-established business is not required to become a taxpayer by obtaining a fiscal number in Paraguay.

Late Registration Penalties

Penalties and interest are assessed for late registration for VAT, if the taxable person owes VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Paraguay, the rate of VAT is 10%. The new tax law (Law 2421/04) provides for a differentiated rate that goes from from 10% to 5%. The taxable base is reduced for some transactions (specified in a tax resolution or decree), thereby reducing the effective rate of VAT. The standard rate applies to all supplies of goods or services, unless a specific provision allows the reduced tax base or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that have a reduced taxable basis for VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Unprocessed agriculture and livestock products
Foreign currency
Securities, stocks and shares
Real estate transactions

Examples of Goods and Services With a Reduced Tax Base

International freight services
Certain imports of goods (specified in Decree 15199)

Examples of Exempt Supplies of Goods and Services

Betting and gaming
 Oil by-product fuels
 Interest on public securities
 Financial intermediary services
 Interest on bank loans and deposits

Examples of Goods and Services With a Reduced Tax Base**According to the new tax law (Law 2421/04) the following items are no longer exempt:**

The sale of the following goods:
 Certificates and shares;
 Real estate;
 Gambling tickets and documents;
 and Fuels that are oil byproducts.
 The supply of the following services:
 Financial intermediary services.

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when they are transferred and, for services, when they are performed. The invoice for the transaction must be issued during the tax period when the tax point occurs and must indicate the due date for VAT.

Imported Goods

The time of supply for imported goods is either the date of importation or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

In certain circumstances, a taxable person may obtain taxable input tax (or credit VAT), which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax (or debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within or from Paraguay and VAT paid on imports of goods.

A valid tax invoice or customs document must generally support input tax credit.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or for nonbusiness 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Business gifts
 Business use of home telephone
 Private use of business assets

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease and hire of cars, vans and trucks, as well as fuel and maintenance charges
 Parking
 Taxis
 Travel expenses
 Conferences and seminars
 Books
 Mobile telephones
 Advertising and sponsorship

Refunds

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

Overpayments of VAT

If a VAT taxpayer has paid too much VAT, or has paid VAT in error, it may correct the return form and use the overpayment to offset output VAT in the following tax period.

G. Recovery of VAT by Non-Established Businesses

Paraguay does not refund VAT incurred by foreign businesses unless they have a permanent establishment and are registered for VAT in Paraguay.

H. Invoicing**VAT Invoices and Credit Notes**

A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support input tax credit.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain a brief explanation stating the reason for the adjustment, and it must be cross-referenced to the original VAT invoice number.

Proof of Exports

VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by a Special Export Invoice (SEI) plus customs documents that prove that the goods have left Paraguay.

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, all amounts must be converted to Paraguayan guaranties (PYG), using the exchange rate published by the tax authorities for recording purposes (local books).

I. VAT Returns and Payment

VAT Returns

VAT returns are submitted monthly. The due date for VAT returns and payment depends on the last number or letter of the VAT taxpayer's tax identification number.

Returns liabilities must be paid in Paraguayan guaranías.

Penalties

A default penalty is charged on late payments of VAT. The penalty starts at 4% of the tax due and increases by 2% increments per month, up to a maximum of 14% (charged for a delay of more than five months). In addition to the default penalty, monthly interest is charged on unpaid tax at a rate of 3.5% per month, calculated on a daily basis, when the penalties are applied by the Income Tax Office. If the penalties are self assessed by the taxpayer, the monthly interest rate is 2%.

Penalties for severe cases of nonpayment of VAT, infringement of VAT regulations and fraud include criminal sanctions, such as fines and imprisonment.

PERU

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A. At a Glance

| | |
|-------------------------------------|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto General a las Ventas |
| Date Introduced | 1 August 1991 |
| European Union (EU) Member State | No |
| Administered by | The General Tax Administration http://www.sunat.gob.pe |
| VAT Rates | |
| Standard | 19% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | Tax Identification Number (known as the "RUC") |
| VAT Return Periods | Monthly |

| | |
|---|------|
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The sale of personal property within the country;
- The provision or use of services within the country;
- Construction contracts;
- The first sale of real property sold by the builder; and
- The importation of goods from outside Peru, irrespective of the status of the importer.

C. Who Is Liable

A VAT taxpayer is any business entity that makes taxable supplies of goods or services in the course of doing business in Peru. Additionally, individuals are liable to VAT if they perform such activities on a “habitual” basis. The Peruvian VAT legislation does not define “habitual” for transactions performed by individuals, the nature, amount and frequency of the operations must be considered.

No registration threshold applies. The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Peru.

Group Registration

VAT grouping is not allowed under the Peruvian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Peru. A non-established business must register for VAT if it makes supplies of goods or services in Peru.

Late Registration Penalties

Penalties and interest are assessed for failure to fulfill formal obligations (such as late registration) and late payment of VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and the provision or use of services that are liable to VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Peru, two rates of VAT currently apply: the standard rate at 19% and the zero rate (0%). The standard rate applies to all supplies of goods or services, unless a specific provision allows the zero rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a zero rate of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Sale of fixed assets
 Fruit and vegetables
 Educational services
 Financial services
 Public transportation

Examples of Goods and Services Taxable at 0%

Exports of goods
 Exports of services

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods and services is outlined as follows:

- Sale of personal property within the country – when the goods are delivered or when the invoice (or payment voucher) is issued, whichever is earlier;
- Provision of services within the country – when the invoice (or payment voucher) is issued or when the compensation is paid, whichever is earlier; and
- Use of services within the country – when the invoice (or payment voucher) is registered in the domiciled entity’s accounting records or when the compensation is paid, whichever is earlier.

The invoice for the transaction must be issued at the time of supply. If the purchaser makes a prepayment before a supply of goods or services takes place, an invoice must be issued and tax must be accounted for on the prepaid amount.

Imported Goods

The time of supply for the import of goods is either when goods clear customs or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax (or credit VAT), which is VAT charged on goods and services supplied to it for business purposes. The Peruvian law requires that the expenditure must relate to either the generation of taxable income or the maintenance of its source. Input tax is generally recovered by being deducted from output tax (or debit VAT), which is VAT charged on supplies made. Input tax includes VAT charged on goods and services supplied within Peru and VAT paid upon the import of goods and services.

A valid tax invoice or customs document must be used to support the claim for input tax. Tax invoices (or payment vouchers) must be registered in the accounting records in the month when they are issued, or within the following four months if the documents are received late.

Recovery by Enterprises Performing Productive Activities

The law provides for two recovery systems for enterprises performing “productive activities” – a general recovery system and an enhanced early recovery system:

- Under the general system, which applies to all productive companies prior to becoming operative, the VAT paid upon the acquisition of capital goods is reimbursed through negotiable credit notes; and

- Under the enhanced system, the VAT paid on the acquisition of new capital goods, on the acquisition of intermediate goods and services, and on construction contracts may be recovered on a monthly basis through negotiable credit notes. Reimbursement is made in foreign currency if the company is entitled to keep its accounting records in a foreign currency.

The enhanced system is restricted to the following entities:

- Companies that have entered into contracts with the Peruvian government for the exploration, development or production of natural resources that require an investment period of more than four years;
- Companies that have entered into contracts with the Peruvian government (including those that have tax stability contracts under the General Mining Law) for the development and production of natural resources that require an investment period of between two and four years (companies in the exploration stage are excluded); and
- Companies that have entered into concession contracts with the Peruvian government for the development of investment projects in public infrastructure and public services works. This regime also applies to companies that transfer the goods acquired and built to the government, pursuant the terms of the contract executed with the Peruvian government.

The application of one reimbursement system does not preclude using the other system for different items.

In addition, an early recovery system applies exclusively for companies engaged in exploration for oil and gas. Under this regime, VAT paid on the acquisition of goods and services used directly in mining and oil and gas exploration activities may be recovered without having to wait until a commercial discovery takes place or production begins. Certain administrative requirements must be met. For example, mining companies must enter into an “Exploration Investment Agreement” with the Peruvian government, making a minimum investment commitment of US\$ 500,000 in mining exploration. VAT recovery is restricted to the VAT paid after the Exploration Investment Agreement is signed.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or that are not for business purposes (for example, goods acquired for private use by an entrepreneur). If expenditure relates to both business and non-business activities, only the portion related to the business may be recovered. In addition, input tax may not be recovered for some items of business expenditure.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Employee meals (unless part of the employee's conditions of employment)

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising and sponsorship
Business gifts, if the value does not exceed 0.5% of the taxpayer's annual gross revenues, with a maximum limit of 40 tax units (currently, S 132,000).

Business entertainment expenses if the value does not exceed 0.5% of the taxpayer's annual gross revenues, with a maximum limit of 40 tax units (currently, S 132,000).

Mobile phone

Parking

Fuel

Taxis

Travel expenses

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. VAT paid upon the acquisition of capital goods may be used as a tax credit (input tax). Tax credit arising from the acquisition of capital goods may be offset with debit VAT (output tax) in the month in which capital goods are acquired.

Repayments

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

G. Recovery of VAT by Non-Established Businesses

Peru does not generally refund VAT incurred by foreign businesses unless they have a permanent establishment or business established in Peru. Foreign businesses established in Peru recover VAT in the same way as all other VAT-registered businesses.

H. Invoicing**VAT Invoices and Credit Notes**

A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax credit.

A VAT credit note may be used to reduce the VAT charged on a supply of goods and services in certain circumstances (for instance, for rebates, trade discounts, bonuses returned goods or errant charges). A credit note must refer to the VAT invoice for the original transaction and contain the same basic information.

Exports

Peruvian VAT is not chargeable on supplies of exported goods and services.

For a service to qualify as VAT-free when exported, it must be included in Appendix V of the Peruvian VAT Law. For exports of goods, customs documents must provide evidence that the goods have left the country. Although they do not charge VAT, exporters may recover VAT paid on the acquisition of goods and services. Exporters may also apply to be reimbursed VAT paid as a credit. The credit may be used to offset either VAT charged or income tax liabilities.

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, the values must be converted to local currency, Peruvian nuevo sol (S/.), using the sales exchange rate in force on the date of the transaction.

I. VAT Returns and Payment**VAT Returns**

VAT returns are submitted monthly. Taxpayers must fulfill their tax obligations between the 7th business day and the 16th business day of the month following the date when the tax obligation arises. The exact date for payment depends on the Tax Terms Schedule, which is approved annually by the Peruvian tax authorities. The Tax Terms Schedule indicates the due date for taxpayers based on their tax identification numbers (RUC).

Return liabilities must be paid in Peruvian currency (nuevo sol).

Penalties

The penalty for failure to submit a VAT return (if an amount of VAT is payable) is 50% of the tax not paid.

Interest is charged at a rate of 1.5% monthly on late payments or underpayments of VAT.

In addition, many other penalties apply to the no fulfillment of formal obligations arising from the VAT law.

POLAND

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Podatek od towarow i uslug |
| Date Introduced | 5 July 1993 European Union (EU) |
| Member State | Yes (with effect from 1 May 2004) |
| Administered by | Ministry of Finance http://www.mofnet.gov.pl |
| VAT Rates | |
| Standard | 22% |
| Reduced | 3% and 7% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 123-45-67-890; PL 1234567890 |
| VAT Return Periods | Monthly Quarterly (for certain groups of taxpayers) |
| Thresholds | |
| Registration | PLN 43,800 (equivalent of €10,000) |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- Supply of goods and rendering of services within the territory of Poland for consideration;
- Receipt of reverse charge services by a taxable person in Poland;
- Export and import of goods;
- Intra-community acquisition of goods for consideration within the territory of Poland; and
- Intra-community supply of goods.

The following activities are outside the scope of VAT:

- Betting, gaming and lotteries;
- Transactions which cannot be subject to legal agreements (illegal transactions);
- Sale of a business (transfer of going concern); and
- Employment contracts.

C. Who Is Liable

A taxable person is any business entity or individual that carries on business activities, regardless of their purpose or result. Business activities include all manufacturing, trading and service providing activities, even if only carried out once, if the circumstances indicate the taxpayer's intention to conduct them on a regular basis. Business activities also include continuous use of goods and intangible rights with the purpose of obtaining income.

The VAT registration limit is the equivalent of €10,000 in Polish zloty (that is, PLN 43,800 in 2005). The limit may apply in one of two ways:

- Retrospectively – the value of supplies of goods or services exceeded (the zloty equivalent of) €10,000 in the previous tax year; or
- Prospectively – if, at the start of business, the value of supplies of goods or services is expected to exceed €10,000. If the business commences after the start of the calendar year, the registration limit applies proportionately to the remainder of the year.

If the value of supplies is not expected to exceed the registration limit, a new business is exempt from VAT. However, it may waive the exemption. The waiver, in writing, must be reported to the appropriate VAT office. If the value of sales exceeds the registration limit, the exemption is automatically no longer valid and the amount of turnover in excess of the limit is subject to VAT.

The registration threshold is not applied to the importation of goods and services, to intra-Community acquisition of goods and the supply of goods on which the purchaser is liable to account for VAT. In addition, businesses in the following categories must register for VAT at the commencement of activity, irrespective of turnover:

- Businesses that supply products made from precious metals;
- Businesses that supply certain excise products;
- Businesses that supply new means of transport;
- Businesses that supply building land;
- Businesses that provide legal, consulting and professional services; and
- Businesses that supply services connected with jewelry.

The €10,000 registration limit is not applicable to foreign businesses.

VAT incurred on acquisitions made before the date of registration is not recoverable as input tax (see Section F *Recovery of VAT by Taxable Persons*).

Group Registration

VAT group registration is not permitted under Polish VAT law. Legal entities that are closely connected must register for VAT individually.

Foreign Businesses and Tax Representative

A foreign business (that is, an entity that is not established in Poland and that does not have a place of business there) must register for VAT in Poland in the following circumstances:

- If it makes taxable supplies of goods or services in Poland; or
- If it receives reverse charge services for which the place of supply is Poland (see Section E *Time of Supply*).

However, a foreign business is not generally obliged to register for VAT in Poland if it supplies exclusively the following services:

- Services and goods where the Polish purchaser accounts for and pays tax under the reverse charge mechanism (see Section E *Time of Supply*); and

- Certain services that are subject to a zero rate (for example, services supplied within Polish sea ports connected with international transport, services of air traffic control rendered for foreign providers of air transportation, and transport services related to import of goods if the cost of transport is included in the tax base of goods – see Section D *VAT Rates*).

A non-established business that is not obliged to register for VAT in Poland, may opt to do so. However, if a business opts to register, it loses the right to a direct VAT refund under the refund scheme for non-resident businesses (see Section G *Recovery of VAT by Non-Established Businesses*).

A non-EU business must appoint a Polish resident tax representative prior to registering for VAT in Poland. The tax representative is jointly and severally responsible for the tax arrears of the foreign business that it represents.

An EU business is not obliged to appoint a tax representative in order to register for VAT in Poland, but it may appoint a tax representative if it chooses to do so. An EU business that wishes to register for VAT from its place of business outside Poland may apply for VAT registration at the following address:

Drugi Urząd Warszawa-Sródmieście
ul. Lindleya 14
02-013 Warszawa
Poland

Late Registration Penalties

No specific penalty applies to late VAT registration in Poland. However, penalties are assessed if, as a result of late registration, a taxable person pays VAT late or submits VAT returns late. Penalties may include fines and criminal penalties.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt” is used for supplies of goods and services not liable to tax, and which do not qualify for input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Poland, four rates of VAT currently apply – the standard rate at 22%, the reduced rates at 3% and 7%, and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services unless a specific provision allows a reduced rate, the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at reduced rates of VAT. This list is not exhaustive.

Examples of Exempt Supplies Goods and Services

Financial services
(with exceptions)
Healthcare services
Social welfare services
Public postal services

Examples of Goods and of Services Taxable at 0%

Exports of goods
Intra-community supply
of goods
Supplies of certain sailing
vessels

Examples of Exempt Supplies Goods and Services

Education
 Lease of residential property
 Cultural and sporting events (with exceptions)
 Services connected with science

Examples of Goods and of Services Taxable at 0%

Books and certain magazines (until 2007)
 International transport and related services
 Supplies of computer equipment to educational institutions
 Supply of gas through the gas distribution system, or of electricity to non-established businesses

Examples of Goods and Services Taxable at 3% (until 2008)

Certain unprocessed basic foodstuffs
 Services related to agriculture, fishery and forestry
 Certain agricultural and forestry products

Examples of Goods and Services Taxable at 7%

Musical instruments
 Certain foodstuffs
 Handicraft products
 Books, newspapers and magazines not taxable at the zero rate
 Maps
 Hotel services
 Certain entertainment services
 Passenger transport
 Travel services
 Medical products
 Supply of water
 Certain services related to agriculture

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are either released or delivered to the purchaser. The basic time of supply for services is when the services are performed. If a tax invoice must be issued for a taxable supply, the actual point is delayed to the date when the VAT invoice is issued, but no later than 7 days following the delivery of goods or the performance of the services.

Special time of supply rules apply to a number of situations.

Prepayments

Prepayments give rise to the tax point when received. The tax point is created only to the extent of the payment.

Exports

The tax point for exports of goods is when the border customs office confirms that the goods have been removed from the European Union.

Imports

The tax point for imported goods arises when a customs debt is incurred. However, for goods imported under one of the following customs regimes, the tax point arises when the goods enter the customs regime: inward processing, temporary customs clearance, processing under customs supervision.

Intra-community acquisitions and supplies of goods

The tax point for the intra-community acquisition of goods is the 15th day of the month following the month when the supply took place. If an invoice is issued before this date, the VAT is due at the time the invoice is issued. The same rule applies to invoices confirming prepayments or advance payments.

The same tax point rules apply to intra-community supplies of goods. However, in the case of prepayments for intra-Community supplies of goods, the tax point arises when the taxpayer makes a security deposit at the relevant tax office (for the amount equal to the excess of input VAT over output VAT to be refunded as a result of the sale taxed at the zero rate).

Reverse Charge Services

“Imported services” are subject to a reverse charge, which is a form of self-assessment of VAT. If the reverse charge applies, the recipient of the service accounts for output tax (effectively on behalf of the supplier).

The reverse charge mechanism is obligatory (if the service provider is not established in Poland) for intangible services listed in Article 9 (2) (e) EU Sixth VAT Directive (see the chapter on the European Union), including the following:

- Transfers and assignments of copyrights, patents, licences, trade marks and similar rights;
- Advertising services;
- Services of consultants, engineers, architects, consultancy firms, lawyers, accountants, and other similar services, services connected with market research and public opinion surveys, advisory services connected with the economic activities and management (defined as in statistical classifications), translation services as well as data processing and the supplying of information;
- Banking, financial and insurance transactions including reinsurance, with the exception of the hire of safes;
- Supply of staff;
- The hiring out of movable tangible property, with the exception of all forms of transport; and
- Telecommunications services;
- Electronically supplied services;
- Obligations to refrain from pursuing or exercising, in whole or in part, a business activity or a right mentioned above;
- Services of agents who act in the name and for the account of another, when they procure for their principal the services mentioned above.

The recipient of the following services must account for VAT, if the Polish supplier has shown the identification number of the recipient on the invoice:

- Advisory services connected with the computer equipment and software as well as with research and technical analysis;
- Provision of access to, and of transport or transmission through, natural gas and electricity distribution systems and the provision of other directly linked services.

The recipient of the following services must account for VAT if it gives the supplier its Polish VAT identification number and the supplier is an entrepreneur that is not established in Poland:

- Services related to reports made by experts, appraisals and work carried out on movable property;
- Intra-Community transportation of goods (see chapter on the European Union);
- Ancillary services to intra-Community transportation of goods;
- Intermediary services to intra-Community transportation of goods; and
- Intermediary services to ancillary services to intra-Community transportation of goods.

The reverse charged VAT is deductible as input tax by the recipient of the service in accordance with the general rules (see Section F *Recovery of VAT by Taxable Persons*), in the same month when the tax point arises or in the following month.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is charged on goods and services supplied to it for business purposes, provided that it relates to the person's taxable supplies. Input tax is generally recovered by being deducted from output tax, which is charged on supplies made.

Input tax includes VAT paid on the purchase of goods and services, VAT paid on imports of goods, intra-community acquisitions, and VAT self-assessed for reverse charge services received from outside Poland as well as VAT self-assessed for goods on which the purchaser is liable to account for VAT.

The amount of the VAT reclaimed must be detailed on a valid VAT invoice.

Non-Deductible 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 the entrepreneur). In addition, input tax is not recoverable for some items of business expenditure.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if related to taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Restaurant meals
Personal expenses
Business entertainment expenses

Examples of Items for which Input Tax Is Deductible (if related to taxable business use)

Advertising
Purchase, lease or hire of passenger cars as well as vans or trucks with high loading capacity

Examples of Items for which Input Tax Is Non-Deductible

Purchase, lease or hire of passenger cars with low loading capacity
 Fuel used for passenger cars with low loading capacity
 Hotel accommodation
 Importation of services for which the payment is transferred to an entity located in the country listed in the list of countries using unfair tax practices (i.e. Andorra, Liechtenstein)

Examples of Items for which Input Tax Is Deductible (if related to taxable business use)

Fuel (gasoline, diesel oil and propane butane) for vehicles listed above
 Maintenance for all types of vehicles, including passenger cars
 Travel (except for distances less than 50 km)
 Conferences
 Business gifts (but output tax must be accounted for by the donor)
 Business use of home telephone and mobile phones

Partial Exemption

Input tax is not recoverable if it is directly related to making either exempt supplies. If a Polish taxable person makes both exempt supplies and taxable supplies, it may not deduct input tax in full. This situation is referred to as partial exemption.

Input tax directly relating to taxable supplies is recoverable in full, while input tax directly related to exempt supplies is not recoverable. Input tax that is not directly attributable to taxable supplies, or to VAT-exempt supplies, must be apportioned to each category.

The general pro rata method is based on the ratio of qualifying turnover compared with total turnover during the calendar year, including any state subsidies received. The initial deduction (that is, the deduction made during a taxable year) is done based on the pro rata percentage for the previous year.

The recovery percentage is rounded up to the nearest whole number. The calculation is adjusted using the actual figures for the year, in the first period of the next calendar year.

Capital Goods

Capital goods are items of capital expenditure that are used in a business for longer than a year. Input tax is deducted in the tax period in which the goods are acquired. The amount of input tax recovered depends on the taxable person's partial exemption status in the VAT year of acquisition. The amount of input tax recovered on the capital item must then be adjusted over time depending on the use of the goods. In Poland, the capital goods adjustment applies to the following assets (for the number of years indicated):

- Real estate (adjusted for a period of 10 years); and
- Capital goods and intangible assets (adjusted for a period of 5 years).

The adjustment does not apply to goods or services being capital goods and intangible assets with a purchase value of less than PLN 3,500.

The adjustment is applied each year following the year in which the capital goods or real estate were made available to a fraction of the total input tax ($\frac{1}{10}$ for real estate and $\frac{1}{5}$ for other capital goods). The adjustment may result in either an increase or a decrease in deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared to the year in which the capital goods were acquired.

Refunds

Generally, if a VAT return shows an excess of input VAT over output VAT, the surplus input tax is carried forward to offset output tax in the following month. Taxable persons may request a direct refund of the surplus within the following time limits:

- 60 days from the date the VAT return was submitted if the excess of input VAT results from purchases of fixed assets or intangible assets or sales that are subject to taxation at rates lower than 22%;
- 180 days from the date the VAT return was submitted in all other cases.

If the taxpayer submits an appropriate application, the refund periods may be shortened to 25 or 60 days accordingly, if the invoices and other documents regarding the input VAT shown in the VAT return were paid.

If necessary, the tax office may extend the refund period until tax proceedings are completed.

If a repayment is delayed, the tax office is obliged to add interest for the delay.

G. Recovery of VAT by Non-Established Businesses

Poland refunds VAT incurred by businesses that are not established nor registered for VAT in Poland. A non-established business is allowed to claim VAT to the same extent as a Polish taxable person.

For businesses established in the European Union, refunds are made under the terms of the EU 8th Directive; for businesses established outside the European Union, refunds are made under the terms of the EU 13th Directive. For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes, see the chapter on the European Union.

To be eligible to claim a VAT refund in Poland, a non-established business must satisfy all the following conditions:

- It must be registered for VAT in the country where it is established;
- It must not be not registered for VAT in Poland;
- It must not make taxable supplies in Poland (with certain exceptions, including supplies of services taxed under the reverse charge); and
- It must be established in a country that refunds VAT to Polish businesses (the reciprocity principle).

Refund Application

The deadline for submitting applications is 30 June following the claim year. This deadline is strictly enforced. The forms must be

completed in Polish. The claim period is a minimum of a calendar quarter and a maximum of one calendar year. The minimum claim amounts are €200 for accounting periods shorter than a year and €25 for an annual claim.

Refunds are made in Polish zloty (PLN) into a bank account maintained by the claimant either in Poland or the state where the claimant is resident or where it has a place of business. If a transfer is made abroad, the tax office will not cover the remittance costs.

Refund claims must be filed with the following tax office in Warsaw:

Drugi Urząd Skarbowy Warszawa-Srodmiescie
II Urząd Skarbowy Warszawa Srodmiescie
Lindleya 14
02 013 Warsaw, Poland

The following documents are required to be able to claim refunds:

- Official application form (attached to the Ministry of Finance Decree);
- Original VAT invoices and customs documents; and
- “Certificate of Registration as a Taxpayer” issued by the VAT authorities in the country where the claimant is established, stating that the taxpayer is a taxable person for VAT purposes (this form is attached to the Ministry of Finance Decree).

Repayments and Interest

Refunds are made within six months from the claim filing date. However, the VAT authorities may extend the deadline in order to investigate the reasonableness of the claim. In practice, the VAT refund may take approximately one year. The VAT authorities do not pay interest on late refunds.

H. Invoicing

VAT Invoices and Credit Notes

A Polish taxable person must generally provide a VAT invoice for:

- All taxable supplies made;
- Export of goods;
- Intra-community supply;
- Supply of goods outside the Polish VAT scope (that is, the reverse charge mechanism applied);
- Supplies of service outside of the Polish VAT scope (that is, the reverse charge mechanism applied);
- Triangular transactions (see the chapter on the European Union); and
- Distance sales (see the chapter on the European Union).

VAT invoices are not required if a business exclusively supplies VAT exempt goods or services. VAT invoices are not automatically required for sales made to private individuals who do not carry on business activity, unless requested. Invoices must support claims for VAT refunds claimed by non-established businesses.

A credit note (called a “correcting invoice”) must be issued if any of the following circumstances arise after an invoice is issued:

- A rebate or discount is granted;

- The price is increased; or
- An error is detected in the price, rate or amount of tax charged or in any other element of the invoice.

In general, a credit note must be issued to the person to whom the original VAT invoice was issued.

Proof of Export and Intra-Community Supplies

Goods exported from Poland and intra-Community supplies of goods are subject to Polish VAT at the zero rate (0%) (see the chapter on the European Union). To qualify for zero rating, the supplier must prove that the goods have left the territory of Poland. Suitable proof for exported goods includes the Single Administrative Document (SAD), which confirms that the goods have been removed from the European Union. For an intra-Community supply, a range of commercial documentation (must) be used (usually transport documents, copy of invoice, the specification and the confirmation from the buyer that he received goods on the territory of an EU country other than Poland).

Foreign Currency Invoices

The VAT amount on the invoice must be shown in Polish zloty, irrespective of the currency in which the amount due is expressed on invoice. If a VAT invoice is issued in a foreign currency, the output value must be converted into Polish zloty, using the official exchange rate published by the National Bank of Poland for the day when the invoice was issued (assuming that the invoice was issued within the statutory time limit).

I. VAT Returns and Payment

VAT Returns

VAT returns are made on a monthly basis (with the exception of a certain group of taxpayers “small taxpayers” who submit the VAT return quarterly). The due date is the 25th day of the month following the return period. Payment in full is required by the same date. VAT liabilities must be paid by bank transfer, and must be paid in Polish zloty.

Small Taxpayers

“Small taxpayers” include VAT-taxable persons whose total value of supplies in the previous VAT year did not exceed the Polish zloty equivalent of €800,000. The €800,000 threshold also applies to commission sales. The threshold for brokerage houses is €30,000 of income on brokerage and other forms of remuneration. A business that meets the “small taxpayer” conditions may opt for a special VAT scheme if it so chooses, but this treatment is not compulsory.

Small taxpayers may choose to account for VAT using the “specific tax point.” The specific tax point for a supply is the receipt of payment no later than 90 days following the delivery of goods or the performance of services. The appropriate VAT office must be notified of the decision to choose this tax point.

Small taxpayers that account for VAT on the basis of the “specific tax point” must submit VAT returns quarterly. Other small taxpayers may also opt for quarterly return periods. The due date for

the quarterly VAT return is the 25th day of the month following the end of the quarter. Payment in full is required on the same date.

Penalties

A number of penalties are assessed in Poland for errors in VAT accounting and for late submission of VAT returns or late payment of VAT:

- Underdeclared output VAT or overclaimed input VAT – the penalty for underdeclaring VAT is a fine of 30% of the understated amount. Interest for delayed payment is also charged. The same penalty applies to overstating the amount of any excess input tax claimed as a refund, or carried forward to the following return period.
- Late submission of VAT returns – if a VAT return is submitted late, the individual responsible for the delay may be fined if the tax courts prove that he or she has been “at fault.” The fine is imposed on the basis of the Fiscal Penal Code, which determines the penal liability of natural persons for fiscal crimes.
- Late payment of VAT – the interest rate applied to delayed payments of VAT is 200% of the National Bank of Poland “Lombard rate”. In January 2005, the rate of interest for delayed payments was 16% per year.

J. EU Declarations

INTRASTAT

A Polish taxpayer that trades in goods with businesses elsewhere in the European Union is obliged to submit Intrastat forms if its turnover in the previous year (2004) or in the current year (2005) exceeded the following amounts:

- For intra-Community acquisitions PLN 300,000; and
- For intra-Community supplies PLN 500,000.

If the taxpayer’s turnover did not exceed the following thresholds, it is not obliged to complete all items of the Intrastat report form (the following items may be excluded: numbers 7, 12, 15 and 20):

- For intra-Community acquisitions PLN 21 million;
- For intra-Community supplies PLN 34 million.

Intrastat returns are filed with the Polish Customs Authorities on a monthly basis. They must be filed by the 10th of the month following the month when the transactions occurred.

Intrastat returns must be submitted either in paper or electronic form. All amounts must be given in Zlotys (PLN).

A penalty may be imposed for late submission or for missing or inaccurate declarations.

EU Sales Lists

All taxpayers that make intra-Community supplies and acquisitions and who are registered as EU VAT payers, are obliged to file an EC Sales List (ESL). No turnover thresholds apply to ESLs under Polish VAT law.

ESLs must be filed quarterly with the Tax Office. They must be filed by the 25th day of the month following the end of the quarter.

ESLs may be filed only in paper form. All amounts must be given in Zlotys.

In Poland, ESLs should include the following information:

- The name of the entity submitting the Lists and its Polish VAT registration number;
- The EU VAT registration numbers of suppliers and customers, together with the appropriate country codes;
- The total of intra-Community acquisitions and intra-Community supplies made; and
- Information about triangular transactions subject to the simplification rule (see the chapter on the European Union).

An ESL is not required for any period in which the taxable person has not made any intra-Community supplies.

Penalties may be imposed for late and missing ESLs.

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A. At a Glance

| | |
|----------------------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Imposto Sobre o Valor Acrescentado (IVA) |
| Date Introduced | 1 January 1986 |
| European Union (EU) Member State | Yes |
| Administered by | The Ministry of Finance http://www.e-financas.gov.pt |
| VAT Rates | |
| Mainland | |
| Standard | 19% |
| Intermediate | 12% |

| | |
|---|---|
| Reduced | 5% |
| Other | Exempt and Exempt with Credit |
| Autonomous Regions of Madeira and Azores: | |
| Standard | 13% |
| Intermediate | 8% |
| Reduced | 4% |
| VAT Number Format | PT 5 1 2 3 4 5 6 7 8 |
| VAT Return Periods | Monthly (if turnover exceeded €498,798 in the previous year) Quarterly (if turnover below €498,798 in the previous year) Annual (all taxable persons) |
| Thresholds | |
| Registration | None |
| Distance Selling | €35,000 (with effect from 1 January 2005) |
| Intra-Community Acquisitions | None |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Portugal by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see chapter on the European Union);
- Reverse charge services received by a taxable person in Portugal; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes, the territory of Portugal includes the autonomous regions of Madeira and the Azores. However, special VAT rates apply to supplies made in these islands.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services or intra-Community acquisitions or distance sales in the course of a business in Portugal.

No VAT registration threshold applies in Portugal. A taxable person that commences activity must notify the VAT authorities of its liability to register.

Special rules apply to foreign or “non-established” businesses.

Group Registration

VAT grouping is not permitted under Portuguese VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Portugal. A non-established busi-

ness that makes supplies of goods or services in Portugal must register for VAT if it is liable to account for Portuguese VAT on the supply, or if it makes intra-Community supplies or acquisitions of goods.

The “reverse charge” applies generally to supplies made by non-established businesses to taxable persons. Non-established businesses for these purposes are entities that are not established nor registered in Portugal (that is, that does not have a tax representative for VAT purposes in Portugal). Under this provision, the taxable person that receives the supply must account for the Portuguese VAT due. If the reverse charge applies, the non-established business is not required to register for Portuguese VAT. The reverse charge does not apply to supplies to private persons or to nontaxable legal persons. A non-established business must, therefore, register for Portuguese VAT if it makes any of the following supplies:

- Intra-Community supplies or acquisitions (see chapter on the European Union);
- Distance Sales in excess of the threshold (see chapter on the European Union); or
- Supplies of goods and services that are not subject to the reverse charge.

Tax Representatives

Businesses that are established in the European Union are not required to appoint a tax representative in order to register for VAT in Portugal. However, EU businesses may opt to appoint a tax representative if they wish to do so.

Businesses that are established outside the European Union must appoint a resident tax representative to register for Portuguese VAT. The tax representative is jointly liable for VAT debts with the business that it represents.

EU businesses that opt not to appoint a fiscal representative should register for VAT at the following tax office:

3rd Tax Office
 Campo Mártires da Pátria, 3
 1150-224 Lisbon
 Portugal

Late Registration Penalties

The following penalties are imposed for late VAT registration in Portugal:

- If the taxpayer’s actions were not intentional, a fine ranging from €400 to €5,000; and
- If the taxpayer’s actions were intentional, a fine ranging from €400 to €10,000.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax and do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is

chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods outside the European Union and related services, and supplies of intangible services made either to another taxable person established in the European Union or to any recipient outside the European Union (see the chapter on the European Union).

Three rates of VAT currently apply in mainland Portugal – the standard rate at 19%, the intermediate rate at 12% and the reduced rate at 5% (prior to 5 June 2002, the standard rate was 17%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, an intermediate rate or an exemption.

In the autonomous regions of Madeira and the Azores the standard rate is 13%, the intermediate rate is 8% and the reduced rate is 4% (prior to 15 June 2002, the standard rate was 12%).

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 5% (4% in Madeira and the Azores) | Examples of Goods and Services Taxable at 12% (8% in Madeira and the Azores) |
|--|--|---|
| Immovable property | Basic foodstuffs | Canned food |
| Medical services | Books and newspapers | Edible oils |
| Finance | Pharmaceuticals | Coffee |
| Insurance | Medical equipment | Horticultural products |
| Supply of copyright by authors | Passenger transport | Food and drink supplied by restaurants |
| Training provided by public sector institutions | Electricity and gas | Fuel, heating fuel and colored oil marked with government approved additives |
| | Cultural events | |
| | Hotel accommodation | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed.

In Portugal, an invoice must be issued before the 5th business day after the basic time of supply. The actual tax point becomes the date on which the invoice is issued. However, if no invoice is issued, tax becomes due on the 5th business day after the basic tax point.

If the consideration is paid in full or in part before the invoice is issued, the actual tax point becomes the date on which payment is received (in respect of the amount paid). The VAT invoice must be issued immediately, in these circumstances.

Prepayments

For prepayments or advance payments, the tax point is the date on which the advance payment is received. The supplier must issue an invoice as soon as an advance payment is received.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day following the basic time of supply for the goods. If the supplier issues an invoice prior to this date, the time of supply is when the invoice is issued.

Intra-Community Supplies

Although no VAT is chargeable for an intra-Community supply, an invoice must be issued by the 15th day of the month following the month when the goods were delivered to the customer.

Imported Goods

The time of supply for imported goods is either the date of importation or when the goods leave a duty suspension regime.

F. Recovery of VAT by Portuguese Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Portugal, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax is Non-Deductible

Purchase, hire, lease, maintenance and fuel for private cars, vans and trucks

Business gifts (unless valued at less than €30) phone

Restaurant meals

Entertainment and luxury goods and services

Examples of Items for which Input Tax is Deductible (if related to a taxable business use)

50% diesel or LPG fuel for vans and trucks

Conferences, seminars and training courses

Advertising

Business use of a mobile

Examples of Items for which Input Tax is Non-Deductible

Transport expenses and business travel including toll costs, incurred outside the scope of the organization or participation in congresses, fairs or exhibitions

Accommodation and meals incurred outside the scope of the organization and participation in congresses, fairs or exhibitions

Drinks and tobacco

Representation expenses

Examples of Items for which Input Tax is Deductible (if related to a taxable business use)**Partial Exemption**

Input tax directly related to making exempt supplies is not generally recoverable. If a Portuguese taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes.

In Portugal, the amount of input tax that a partially exempt business may recover is calculated in one of two ways.

The first method is a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible (this method is usually referred to as the “direct allocation method”); input tax directly related to exempt supplies is not deductible.
- In the second stage, the remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned. The apportionment may be calculated based on the value of taxable supplies made compared with total turnover, or by using another acceptable method agreed on with the VAT authorities. The recovery percentage is rounded up to the nearest whole number (for example, a recovery percentage of 72.1% is rounded up to 73%).

Alternatively, a taxable person may use a general pro rata calculation based on the value of taxable supplies made compared with total turnover.

Taxable persons may use both methods at the same time, for different operations or for different sectors of activity. The Portuguese VAT authorities may also impose the use of one of these two methods, to prevent distortions of competition.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time,

if the taxable person's partial exemption recovery percentage changes by more than 5% in any year during the adjustment period or if goods are taken from a taxable sector or activity for use in an exempt sector or activity.

In Portugal, the capital goods adjustment applies to the following assets for the number of years indicated:

- Immovable property (adjusted for a period of 20 years); and
- Movable property (adjusted for a period of five years).

The capital goods adjustment does not apply to the following items:

- Goods with a purchase of value of less than €250; or
- Goods with a useful life of less than five years (for example, computers).

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{20}$ for immovable property and $\frac{1}{5}$ for other movable capital goods). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person has an input tax credit. A refund of the credit may be claimed in certain circumstances. If a refund may not be claimed, the input tax credit may be carried forward to offset output tax in a subsequent period.

A refund may be requested if the credit balance is at least €250 and the taxable person has been in a credit position for a minimum period of 12 consecutive months. However, if the VAT credit exceeds €9,367, a VAT refund may be claimed immediately. Immediate recovery may also be requested if the VAT refund exceeds €4,683 if one of the following conditions is met:

- The VAT refund is claimed within six months of the taxable person commencing business activity; or
- The taxable person can prove that it used bank financing for investment purposes.

With effect from 2003, a refund may also be requested before the 12 month period is exceeded for amounts greater than €25 in the following circumstances;

- The taxable person has ceased operations;
- The taxable person has ceased to make taxable supplies and now exclusively makes supplies that are exempt from VAT; or
- The taxable person begins to use the special VAT accounting regime for retailers.

In general, a refund is claimed by submitting the VAT return form, together with all necessary additional documentation requested by the VAT authorities.

G. Recovery of VAT by Non-Established Businesses

Portugal refunds VAT incurred by businesses that are neither established in Portugal nor registered for VAT there. A non-estab-

lished business is permitted to claim Portuguese VAT to the same extent as a VAT-registered business.

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive on the condition of reciprocity. Portuguese VAT is therefore refunded only to non-EU claimants established in countries that refund VAT to Portuguese businesses.

For the general VAT refund rules of the EU 8th and 13th Directives refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is the last business day in June in the year following the calendar year when the tax was incurred.

Claims must be submitted in Portuguese. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union). The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €160. For an annual claim the minimum amount is €20.

Applications for refunds of Portuguese VAT may be sent to:

Direcção-Geral dos Impostos
Direcção de Serviços de Reembolsos do IVA
Avenida João XXI, 76, Apartado 8220
1802 – 804 Lisbon
Portugal

Repayment Interest

Claimants may request payment of interest if an EU 8th or 13th Directive claim is repaid more than six months after being submitted. In Portugal, EU 8th and 13th Directive refunds are generally paid after one to two years.

H. Invoicing

VAT Invoices and Delivery Notes

A Portuguese taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

Two copies of the delivery note or invoice must accompany all goods in transit. The document used must contain the same information as an invoice, excluding the value of the transaction. This document must also contain details indicating from where the goods were dispatched, their destination and the time when dispatch commenced.

Credit Notes

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. A credit note must be cross-referenced to

the original invoice. The mention of VAT on a credit note is optional. If VAT is mentioned, the supplier may reduce the VAT payable in respect of the supply, but only if it has written confirmation from the purchaser acknowledging the VAT adjustment.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that confirms the goods have left Portugal. Acceptable proof includes the following documentation:

- For an export, stamped customs documentation and an indication on the invoice of the Portuguese VAT law article that permits exemption with credit for the supply; and
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU Member State), plus a range of commercial documentation (such as bills of lading, transport documentation and proof of payment).

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, the values and VAT amounts used must be converted to Euros (€). The conversion must be done using the sales rate used by a bank established in Portugal on the date when the tax is chargeable or, alternatively, on the first business day of that month. The invoice must indicate the exchange rate used.

This rule is valid only for invoices issued by Portuguese taxable persons. For invoices received from foreign suppliers (for example, invoices related to intra-Community acquisitions), the acquirer may indicate the exchange rate used to convert the amounts to Euros on the face of the invoice.

I. VAT Returns and Payment

VAT Returns

Periodic VAT returns are submitted in Portugal for monthly or quarterly periods, depending on the taxable person's turnover in the previous VAT year. All taxable persons also complete an annual return.

Monthly VAT returns must be filed if the taxable person's turnover in the previous year exceeded €498.798.

Periodic VAT returns must be filed together with full payment of VAT. Monthly VAT returns must be submitted before the 10th day of the second month after the end of the return period. Quarterly VAT returns must be submitted before the 15th day of the second month after the end of the return period.

Annual returns, as a general rule, must be submitted by the last business day of June following the end of the calendar year.

Return liabilities must be paid in Euros.

Penalties

The following penalties apply to the late submission of periodic and annual VAT returns:

- If the fault is not deliberate, a fine ranging from €200 to €2,500; and
- If the fault is deliberate, a fine ranging from €200 to €5,000.

The following penalties apply to the late payment of VAT:

- If the fault is not deliberate, a fine ranging from 20% to 100% of the VAT due, up to a maximum of €30,000; and
- If the fault is deliberate, a fine ranging from 200% to 400% of the VAT due, up to a maximum of €110,000.

In addition, interest applies (currently at a 4% annual rate).

J. EU Declarations

INTRASTAT

A Portuguese taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of 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 calendar year 2005 is €60,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €85,000.

The INTRASTAT return period is monthly. The submission deadline is the 10th business day following the end of the return period.

The maximum penalty for the late submission or incorrect submission of an INTRASTAT return is €57,078.

EU Sales Lists

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

ESLs are submitted monthly or quarterly with the VAT return.

Penalties may be imposed for late, missing and inaccurate ESLs.

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Taxa pe Valoarea Adaugata |
| Date Introduced | 1 July 1993 |
| European Union (EU) Member State | No |
| Administered by | Ministry of Public Finance http://www.mfinante.ro |
| VAT Rates | |
| Standard | 19% |
| Reduced | 9% |
| Other | Exempt (without Credit) and Exempt with Credit |
| VAT Number Format | R 12 34 56 789 |
| VAT Return Periods | Monthly or Quarterly |
| Thresholds | |
| Registration | ROL 2 billion |
| Recovery of VAT by Non- Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- Supplies of goods made in Romania by a taxable person;
- Supplies of services in Romania; and
- The importation of goods into Romania.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services in Romania in the course of a business. For 2005, the VAT registration threshold is ROL 2 billion turnover a year.

Group Registration

VAT group registration is not permitted under the Romanian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Romania. In principle, a non-established business is required to register for VAT if it makes taxable supplies in Romania, other than those taxed under the “reverse charge” VAT mechanism (that is, supplies for which the recipient is liable to pay the VAT due).

Tax Representatives

A foreign or non-established entity that carries on taxable operations within Romania may not register for VAT in its own right, unless it establishes a Romanian branch or subsidiary. If a non-established entity makes a taxable supply of goods in Romania it must appoint a Romanian resident tax representative to fulfill its Romanian VAT obligations.

If a non-established entity makes supplies of services performed in Romania, appointing a VAT representative is optional. In this latter case, if the foreign supplier of the service does not appoint a VAT representative, the VAT liability is shifted to the Romanian service beneficiary, and the reverse-charge mechanism applies.

Late Registration Penalties

Penalties (up to ROL 100 million) apply to late registration for VAT purposes. Separate penalties are assessed for the late payment of VAT and for delays in submitting VAT returns.

D. VAT Rates

Supplies within the scope of VAT are classified as taxable and exempt. Exempt supplies are further classified in the following ways:

- Exempt supplies with the right to deduct input VAT (see Section F *Recovery of VAT by Taxable Persons*) (that is, exempt with credit);
- Exempt supplies without the right to deduct input VAT (that is, exempt without credit); and
- Imports exempt from payment of VAT.

In Romania, the standard rate of VAT is 19%.

A 9% reduced VAT rate applies to the following supplies:

Admission to castles, museums, memorial houses, historical monuments, architectural and archeological monuments, zoos, botanical gardens, fairs, exhibitions;

The following table lists examples of goods and services taxed at the reduced rate and exempt supplies of goods and services. This list is not exhaustive.

| Examples of Supplies of Goods and Services that are Exempt without Credit | Examples of Supplies of Goods and Services that are Exempt with Credit | Examples of Exempt Import Operations |
|--|---|--|
| Specific banking and financial operations | Exports of goods | Imported goods traded under a duty-free regime |
| Insurance and reinsurance | Transport services and services related to exports of goods | Import of Romanian goods repaired abroad |
| Medical services | International transport of passengers and related services | Donated goods |
| Agriculture | | |
| Education | | |
| Research activities | | |

Examples of Supplies of Goods and Services Taxed at 9%

| | |
|---|--|
| Books, newspapers and magazines, and school manuals (except those intended exclusively for publicity) | Medicines for human use and veterinary use |
| Prostheses of any type and accessories (except dental prostheses) | Hotel accommodation and similar accommodation, including the rental of land for camping. |
| Orthopedic products | |

E. Time of Supply

The time when VAT becomes due is called the “chargeability to tax” or “tax point” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the services are provided. A number of exceptions apply to these rules.

Continuous Supplies of Services

The time of supply for continuous supplies of services is the date when documents used by the supplier to determine the quantities delivered and services supplied are prepared, but not later than the end of the month following the month when the supply is made.

Prepayments

The chargeability for advance payments is when the payment is received.

Payments by Installment

The chargeability for installment payments is the due date for payment.

Reverse Charge Services

Certain services received by a Romanian taxable person from a foreign supplier are taxed in Romania using the reverse charge mechanism, which means that the Romanian customer must account for the VAT due and issue a “self-invoice” (which comply with a specified format). The Romanian customer must account for reverse charge VAT in the VAT return of the month when the supplier’s invoice is received or, if payment is made without an invoice, in the month when payment is made for the services. This procedure is cash neutral for the Romanian beneficiary. If the Romanian beneficiary of the service is not registered for VAT purposes, VAT must be paid by the Romanian beneficiary by the 25th day of the following month, using a special VAT return.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being offset against output VAT, that is, VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Romania, VAT paid on imports of goods, and any VAT self-assessed for reverse charge services received.

Except for certain specific cases, the amount of VAT reclaimed must be detailed on a valid VAT invoice. Excess input VAT over output VAT is generally refundable or offset against other tax liabilities.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not used in the performance of VATable operations (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 table sets out examples of items of expenditure for which input tax is not deductible and, if related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Personal expenses
 Protocol expenses
 (subject to the rules for Profits Tax)
 Alcohol and tobacco

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising
 Hotel accommodation
 Conferences
 Purchase or lease of cars, vans and trucks
 Travel expenses

Partial Exemption

Input tax directly related to taxable supplies is fully recoverable, while input tax directly related to exempt supplies is fully restricted. Input tax that is attributable to both taxable and exempt supplies (such as VAT paid on overhead costs) is deductible on a prorata basis. The prorata is generally based on the percentage of income generated by supplies with a right to input tax deduction, divided by total income. The calculation of recoverable VAT is based generally on the annual pro rata of the prior year. However, a monthly or quarterly calculation may be used if approved by the tax authorities.

Refunds

If input VAT exceeds output VAT, the balance (defined as the 'negative VAT balance') may be:

- Carried forward to the next period; or
- Compensated or refunded by the tax authorities, based on the option expressed by the taxpayer in the VAT return. This option may only be exercised for negative VAT balances exceeding ROL 50 million.

A VAT refund or compensation request is generally dealt with within 45 days. During this period, the tax authorities are entitled to request additional information from the taxpayer. Therefore, the term for making the repayment may be extended by the number of days between the date of the request for additional information and the date that the information is received by the tax authorities. If the refund or compensation request is not dealt

with by the expiration of this term, the taxpayer is entitled to receive late payment interest.

G. Recovery of VAT by Non-Established Businesses

Romania does not refund VAT to non-established businesses that are not registered for VAT in Romania.

H. Invoicing

VAT Invoices and Reversal Invoices

A Romanian taxable person must generally provide a fiscal VAT invoice for taxable supplies made including exports. Invoices containing errors may be cancelled and the taxpayer may issue a "reversal invoice." The amount credited must be printed in red on the reversal invoice and must be preceded by a minus sign. A reversal invoice must contain the same information as a VAT invoice.

Proof of Exports

Goods exported from Romania are not subject to Romanian VAT. To qualify as VAT-exempt with credit, the supplier must prove that the goods left the Romanian territory. Suitable proof includes the following documentation:

- Customs documentation;
- Invoices; and
- Other relevant documentation depending on the nature of the export.

Foreign Currency Invoices

VAT invoices must be issued in Romanian lei (ROL). If a VAT invoice is issued in a foreign currency, all values for VAT purposes must be converted into lei, using the rate published by the National Bank of Romania on the date when the invoice was issued. The tax base must be amended to reflect any price difference resulting from any exchange rate differences arising between the date of invoicing and the date when payment is received.

I. VAT Returns and Payment

VAT Returns

Taxable persons with an annual turnover below the ROL equivalent of €100,000 must submit VAT returns quarterly. All other taxable persons submit VAT returns monthly.

The due date is the 25th day of the month following the end of the return period. Payment in full is required by the same date. All VAT liabilities must be paid in Romanian lei.

Penalties

Late payment interest at a rate of 0.06% is applicable for each day that a tax payment is delayed. An additional late payment penalty of 0.5% per month or part of a month is also payable for each day of delay. The additional penalty accrues with effect from the first day of the month following the due date.

Fraud committed in connection with the calculation of a VAT repayment may be viewed as fiscal evasion.

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Nalog na Dobavlennyuyu Stoimost (NDS) |
| Date Introduced | 6 December 1991 |
| European Union (EU) Member State | No |
| Commonwealth of Independent States (CIS) Member State | Yes |
| Administered by | Ministry of Finance of the Russian Federation http://www.minfin.ru Federal Tax Service http://www.nalog.ru |
| VAT Rates | |
| Standard | 18% |
| Reduced | 10% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 7736049525 |
| VAT Return Periods | Monthly (turnover in excess of RUB 1 million a month) Quarterly (turnover less than RUB 1 million a month) |
| Thresholds | |
| Registration | None |
| Exemption from VAT | RUB 1 million (in three calendar months) |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods, works or services made in Russia by a taxpayer;

- The transfer of property rights by a taxpayer;
- The performance of construction and the installation and assembling of works for own consumption;
- Withholding of VAT withheld on services received by a Russian taxpayer from a foreign company; and
- The importation of goods into Russia, irrespective of the status of the importer.

C. Who Is Liable

A taxpayer is any legal entity or individual entrepreneur (including a foreign legal entity) that makes taxable supplies of goods, works or services in Russia, in the course of its business or that conveys goods across the customs border of the Russian Federation.

Tax Registration

All taxpayers are subject to tax registration. A foreign legal entity has the right to be registered where its permanent establishment is located. VAT registration alone is not common. Generally, a full tax registration takes place.

Exemption from VAT Payment Obligations

No VAT registration threshold applies in Russia. However, a legal entity or individual entrepreneur may be exempted from the fulfillment of obligations associated with the calculation and payment of VAT. Exemption may apply if, in the last three calendar months, the amount of receipts from the sale of goods, works or services did not exceed RUB 1 million in total.

Exemption from VAT payment obligations is granted upon submission of special notification to the tax authorities together with supporting documentation proving entitlement. A legal entity or individual entrepreneur that is granted exemption is not required to charge VAT or submit VAT returns, but it is restricted in its ability to recover input VAT on purchases (see Section F *Recovery of VAT by VAT Taxpayers*).

Group Registration

VAT group registration is not permitted under the Russian VAT law. Legal entities that are closely connected must register for VAT purposes separately.

Foreign Legal Entities (Non-Established Businesses)

A “non-established business” is a business that has no fixed establishment in the territory of Russia. A foreign legal entity or non-established business may be required to register for tax purposes in Russia for a number of reasons. The correct procedure, the timing of registration and the documents required depend on the situation:

- If a foreign legal entity plans to conduct business through a fixed place of business for more than 30 days a year, it must register within 30 days of commencing business activity in Russia;
- If a foreign legal entity owns taxable property in Russia (that is, immovable property or a means of transport), it must register within 30 days either from the date when it registers its ownership right in the property or from the date of import.

The tax registration procedure is the same for non-established businesses as for Russian legal entities. A foreign legal entity must submit a standard application form for tax registration to the Russian tax authorities together with supporting information and documentation about the entity.

A non-established entity that does business in Russia but is not obliged to register for VAT may choose whether or not to register. If a non-established business chooses not to register for VAT, the recipient of the supply must act as a tax agent and withhold VAT due. However, in this case, the non-established supplier is not entitled to recover any input tax (VAT on purchases). In many cases, therefore, registration is the preferred option, as it allows the non-established business to recover input tax.

A non-established business may choose to register for VAT after undertaking taxable transactions in Russia. However, if it does so, the non-established business may only recover input tax related to goods, works or services that it has supplied in Russia on the condition that the recipients of its supplies withheld VAT. In addition, the recovery of input tax on any expenditure is delayed until the date of VATable supply.

Late Registration Penalties

Russian tax legislation provides for several types of fines in the following amounts for tax registration violations:

- Late tax registration – a penalty of RUB 5,000;
- Late registration over 90 days – a penalty of RUB 10,000; and
- The avoidance of tax registration – a penalty of between 10% and 20% of the amount of income generated during the period of unregistered business activity, depending on the duration of the delay in tax registration.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods, works and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods, works and services not liable to tax and which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Russia, three rates of VAT currently apply – the standard rate at 18%, the reduced rate at 10% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods, works or services, unless a specific provision allows a reduced rate, the zero rate or an exemption.

The following table lists examples of exempt supplies of goods, works and services, and supplies of goods, works and services that are taxed at a reduced rate or zero rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 0% | Examples of Goods and Services Taxable at 10% |
|--|--|--|
| Financial services on granting loans | Exports of goods and related services | Basic foodstuffs |
| Insurance | Supplies to diplomats (if reciprocal arrangements apply) | Certain children's goods |
| Public transport | Foreign Passenger transportation services | Medicines and medical products |
| Medical services | Supplies of stable gas condensate and natural gas, except crude oil, provided to other CIS countries | Newspapers and magazines (until 1 January 2005) |
| Lease of office premises and housing to accredited representative offices of foreign entities (if reciprocal arrangements apply) | | |
| Sale of houses, living accommodation and shares in them (with effect from 1 January 2005) | | |

E. Time of Supply

The moment when VAT becomes due is called the “time of supply” or the “tax point.” For taxpayers that account for VAT on a cash basis, the tax point is the receipt of payment for shipped goods (performed works, rendered services).

For taxpayers that account for VAT on an accrual basis, the tax point is the date of shipment of the goods or date of performance of a service.

Reverse Charge Services

“Reverse charge” VAT is applied to payments for goods, works or services supplied by foreign legal entities to Russian legal entities or individual entrepreneurs. Under the reverse charge, the liability to withhold and pay VAT rests with the recipient of the supply who acts as a tax agent. The reverse charge applies in the following circumstances:

- The foreign legal entity is not registered as a taxpayer in Russia; and
- The place of supply for the goods, works or services is the Russian Federation.

In Russia, reverse charge VAT is treated as a withholding tax. The non-established supplier's invoice must, therefore, be grossed up to include the VAT due to ensure the net payment equals the agreed contract price for the supplied goods, works or services.

F. Recovery of VAT by Taxpayers

A taxpayer may recover input tax, which is VAT charged on goods, works and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods, works and services supplied within Russia, VAT paid on imports of goods, and VAT

self-assessed for reverse charge works or services received from outside Russia.

VAT may not be recovered on prepaid expenses. VAT is recoverable only after the goods, works or services have been received, payment has been made and a VAT invoice (“factura”- invoice) has been received. VAT incurred on construction services (including construction carried out by the taxpayer for its own use) is recoverable only after the construction work is completed and put into use.

The amount of VAT reclaimed must be indicated separately on a VAT invoice (“factura”-invoice) issued in conformity with the provisions of the Russian VAT law.

According to a ruling of the Constitutional Court of the Russian Federation (Determination 169-O) further limitations apply to the offset of input VAT paid from “borrowed funds”. The factors limiting VAT offset are as follows (after clarification provided by Determination 324-O):

- “Borrowed funds” are amounts that are not repaid at the moment of VAT offset, and that will probably never be repaid in future.
- The related business processes do not lead to the fulfillment of a corresponding liability to remit VAT to the budget in cash. This limitation refers to the fulfillment of tax obligations by the taxpayer’s suppliers, but it gives the tax authorities grounds to refuse VAT offset on the basis that the corresponding amounts of VAT were not paid to the budget by the taxpayer’s suppliers.
- If purchases are made using funds received as financial assistance from the taxpayer’s parent company, no input VAT offset is allowed.
- VAT charged on advances may only be recovered after the respective sales are recognized.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods, works and services that are not used for making VATable supplies (for example, goods purchased for private use by an entrepreneur). In addition, input tax may not be fully recovered on some business expenses (that is, expenses that are limited for profits tax deduction).

The following table sets out examples of expenses for which input tax is not deductible and, if made for business purposes, examples of expenses for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Personal expenses
Home telephone expenses
Parking
Restaurant meals

Examples of Items for which Input Tax Is Deductible

Purchase, lease or hire of a car, van or truck
Fuel for cars, vans and trucks
Car maintenance
Business entertainment and travel*
Conferences*
Advertising*
Hotel accommodation*
Mobile phone expenses

* Input Tax recovery is allowed within prescribed limits for these items of expenditure.

Partial Exemption

If a Russian taxpayer makes both exempt supplies and taxable supplies, it is obliged to account for them separately. Input VAT directly related to taxable supplies is recoverable in full, while input VAT directly related to exempt supplies is not recoverable and should be offset as an expense. Input VAT that may not be directly attributed to taxable or exempt supplies (such as VAT on business overhead costs) must be apportioned. The statutory method of apportionment is a pro rata calculation, based on the value of taxable supplies made compared with the total turnover of the business.

Refunds

If the amount of input tax recoverable in a monthly period exceeds the amount of output tax payable in that period, the taxable person earns an input tax credit. Generally, the input tax credit is carried forward to offset output tax in the following month. VAT credits may be carried forward for three months. During this period, the tax authorities may offset the VAT credit against the taxpayer's other outstanding tax liabilities. Upon the expiration of three calendar months the amount which has not been taken into account shall be subject to refund for the taxpayer on his written application.

G. Recovery of VAT by Non-Established Businesses

VAT refunds are made exclusively to registered persons that make taxable supplies in Russia. VAT incurred by a foreign legal entity is not refundable, unless the foreign legal entity performs VATable supplies in Russia and elects to register.

If a foreign legal entity is registered with the Russian tax authorities as a representative office, it may request a refund if all of the following conditions are met:

- The foreign legal entity makes VATable supplies;
- The input VAT relates to business expenses;
- The goods or services are paid for and reflected in the accounting books as expenses; and
- Valid VAT invoices support the expenses.

Refund Application

The VAT refund application must be sent to the appropriate tax office. The application must be completed in Russian. The refund is made in rubles (RUB) into a bank account held in Russia. Generally, refunds are made only after an on-site tax audit carried out at the taxpayer's premises. The tax authorities may request any of the following documentation for the VAT audit:

- Original VAT invoices;
- Documents confirming the tax has been paid or withheld;
- Contracts;
- The sales and purchase ledgers; and
- VAT returns and supporting documentation.

Interest on Refunds

The Russian VAT legislation requires the tax authorities to grant a refund no later than two weeks following a claim by the taxpayer. After three months after submission of the claim if a positive decision is reached the refund is made. In practice, however, refunds are often delayed.

If a refund is paid late, the tax authorities must also pay interest, accrued at a rate of 1/300 of the Russian Central Bank refinancing rate for each day of delay (the rates were 13% as of 15 June 2004).

H. Invoicing

VAT Invoices and Credit Notes

A Russian taxpayer must provide a VAT invoice for all taxable supplies made in order to offset or refund VAT. Invoices must be issued in Russian, although bilingual invoices may be issued in Russian and another language.

The supplier may issue a credit note to reduce the VAT chargeable on a supply. A credit note must contain the same information as the invoice to which it refers. However, no clear official rules are available with respect to credit notes.

Proof of Exports

Goods exported from Russia are subject to Russian 0% VAT rate. To confirm 0% VAT, the supplier must prove that the goods have been exported.

Foreign Currency Invoices

Generally, VAT invoices should be issued in rubles (RUB). If a VAT invoice is issued in a foreign currency, all values required for VAT purposes must be converted into rubles for tax purposes, using the rate published by the Russia Central Bank on the date of payment.

I. VAT Returns and Payment

VAT Returns

Taxpayers whose monthly turnover, net of VAT, exceeds RUB 1 million in a quarter are required to pay VAT and file VAT returns on a monthly basis. Taxpayers whose monthly revenue, net of VAT, is less than RUB 1 million in a quarter are required to file VAT returns and pay VAT quarterly. The due date in all cases is the 20th day of the month following the end of the tax period (month or quarter). VAT payable under the reverse charge mechanism is accounted for separately and should be paid to by the tax agent at the same time of payment to supplier.

Penalties

Russian tax legislation provides for several types of fines in connection with filing VAT returns:

- Late filing – a penalty ranging from 5% to 40% of the underpaid tax, depending on the duration of the delay;
- Severe violation of revenue and expenses accounting regulations in one tax period – penalty of RUB 5,000;
- Severe violation of accounting regulations in more than one tax period – a penalty of RUB 15,000;
- Severe violation of accounting regulations leading to the understatement of the taxable base – a penalty of 10% of the underpaid tax, but no less than RUB 15,000;
- Nonpayment or partial payment of the tax – a penalty of 20% of the underpaid tax; and

- Willful nonpayment or partial payment of the tax – a penalty of 40% of the underpaid tax.

In addition, criminal charges may be imposed for “willful or negligent conduct of business that results in defrauding the State.”

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Goods and Services Tax (GST) |
| Date Introduced | 1 April 1994 |
| Administered by | Inland Revenue Authority of Singapore (“IRAS”) http://www.iras.gov.sg |
| GST Rates | |
| Standard | 5% with effect from 1 January 2004 (3% prior to 1 January 2003, 4% in 2003) |
| Other | Zero-Rate and Exempt |
| GST Number Format | M2-1234567-8; MR-1234567-8; 1990-12345-X (local) F2-1234567-D (nonresident) |
| GST Return Periods | Quarterly Monthly (optional, subject to approval from the Comptroller) |
| Thresholds | |
| Registration | S\$1 million |
| Recovery of GST by Non-Established Businesses | No (unless the non-established business is registered for GST in Singapore) |

B. Scope of the Tax

GST applies to the following transactions:

- Supplies of goods and services in Singapore, made in the course of a business by a taxable person; and
- Imports of goods into Singapore.

C. Who Is Liable

A “taxable person” is a person who is registered or is required to be registered for GST.

Compulsory Registration

The GST registration threshold is S\$1 million. For compulsory registration, the threshold applies in the following ways:

- Retrospectively – registration is required if at the end of any quarter, the value of taxable supplies in that quarter and the preceding three quarters exceeds S\$1 million. However, registration is not required if the Comptroller of GST (“the Comptroller”) is satisfied that the value of taxable supplies in the following four quarters is not expected to exceed S\$1 million.
- Prospectively – registration is required if at any time there are reasonable grounds for believing that the value of taxable supplies in the next 12 months is expected to exceed S\$1 million.

Under the first method, a business is obliged to notify the Comptroller within 30 days of the end of that quarter. Under the second test, a business is obliged to notify the Comptroller within 30 days from the beginning of that period.

Voluntary Registration

A business that has not yet made taxable supplies, or whose value of taxable supplies is below the registration limit, may register for GST voluntarily. A business that registers for GST voluntarily must remain registered for at least two years.

Under the GST legislation, “taxable supply” is defined as a supply of goods or services made in Singapore other than an exempt supply. Based on this definition, businesses that make wholly exempt supplies would not be eligible for GST registration. However, the GST Act allows a person that is not liable to be registered to apply for voluntary registration if it makes exempt supplies of financial services (as specified in paragraph 1 of the Fourth Schedule to the GST Act), if the services would have qualified as international services if they were made by a taxable person.

Group Registration

Businesses that are under “common control” may apply to register as a GST group. Each member must be individually registered for GST. Once registered as a GST group, the group members are treated as a single taxable person and submit a single GST return. Supplies made between members within the group are disregarded for GST purposes. Group members are jointly and severally liable for all GST liabilities.

Divisional Registration

If a taxable person carries on more than one business or operates several divisions, he may apply to the Comptroller to register any

of the businesses or divisions separately. Divisional registrations will ease the GST administration for such businesses. Upon approval, each division is given a separate GST registration number and submits its own GST return. Supplies made between divisions within the divisional registration are disregarded for GST purposes.

Exemption from Registration

A taxable person that exclusively makes zero-rated supplies may request exemption from registration. In practice, exemption from registration may be granted to a taxable person whose zero-rated transactions represent more than 90% of its total taxable supplies.

Deregistration

A business that ceases operations must cancel its GST registration. A business that is obliged to deregister must notify the GST authorities within 30 days of ceasing to make taxable supplies.

A taxable person whose value of taxable supplies is not expected to exceed S\$1 million in the next 12 months may request for deregistration.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Singapore. A business that is not established in Singapore is obliged to register for GST if it makes taxable supplies exceeding the registration threshold of S\$1 million. A representative office of a non-established business in Singapore may also register for GST and reclaim input tax on expenses, even if it does not make taxable supplies.

Tax Representatives

A non-established business must appoint a local tax representative in order to register for GST.

Late Registration Penalties

Penalties are imposed for failure to register for GST, late payment of GST, late submission of GST returns, and the submission of incorrect returns.

GST Schemes

A variety of schemes assist businesses to ease the administrative burden associated with GST compliance, as well as to improve cash flow, for example, the Major Exporter Scheme (MES), the Approved Contract Manufacturer and Trader Scheme (ACMT) and the Approved Third Party Logistics Company Scheme.

D. GST Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of GST, including zero-rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of GST by Taxable Persons*).

In Singapore, with effect from 1 January 2004, the standard rate of GST is 5%. The standard rate of GST applies to all supplies of

goods or services, unless a specific relief allows the zero-rating or exemption.

Exports of goods and international services are zero-rated (that is, taxed at 0%). International services that qualify for zero-rating are specifically listed in the GST Act. Exempt supplies include the sale or lease of residential property and financial transactions listed in the GST Act.

E. Time of Supply

The time when GST becomes due is called the “time of supply” or “tax point.”

Generally, the time of supply for goods is the earliest of the following events:

- The date when the goods are removed from the supplier’s premises or, if not removed, are made available;
- The date of issue of a tax invoice; or
- The date of receipt of payment.

Generally, the time of supply for services is the earliest of the following events:

- The date when the service is performed;
- The date of issue of a tax invoice; or
- The date of receipt of payment.

However, if the supplier issues a tax invoice within 14 days of delivering goods or performing a service, the time of supply becomes the date when the invoice is issued, provided no payment has been received prior to either the removal of the goods or the performance of the services.

Imported Goods

The time of supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime or free trade zone.

F. Recovery of GST by Taxable Persons

A taxable person may recover input tax, which is GST incurred on goods and services used or to be used for the purpose of any business carried on or to be carried on by the taxable person. Input tax is generally recovered by deducting it against output tax, which is GST charged on supplies made.

Input tax includes GST paid on goods and taxable services purchased in Singapore and on goods imported into Singapore.

Input tax must generally be claimed in the month when the tax invoice is issued.

A valid tax invoice or customs import permit must be held to support any claim for input tax.

Non-Deductible 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 a taxable person). In addition, input tax may not be recovered for some items of business expenditure. The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related

to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchases used for non-business purposes
Purchase, lease, hire and maintenance of cars
Parking
Club subscriptions

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising
Business gifts (output tax must be accounted for on gifts costing over S\$200 or of gifts that form a series of gifts – that is, three or more gifts given to the same person within the prescribed GST quarter)
Purchase, lease, hire and maintenance of trucks and vans
Business entertainment
Private use of business assets (output tax must be accounted for)
Attendance at conferences

Partial Exemption

Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Zero-rated supplies are treated as taxable supplies for these purposes.

Partial exemption recovery is calculated in two stages:

- The first stage identifies the input tax that may be directly attributable to taxable and to exempt supplies. Input tax directly attributable to taxable supplies is deductible; input tax directly related to making exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered. The calculation may be performed using the ratio of the value of taxable supplies over the value of total supplies (that is, taxable and exempt supplies), or it may be based on a special calculation agreed with the GST authorities.

Notwithstanding the above provisions, if the value of a taxable person's exempt supplies for an accounting period does not exceed both the average of \$20,000 per month and 5% of the total value of taxable and exempt supplies made in that accounting period, the input tax relating to the exempt supplies is treated as attributable entirely to taxable supplies. In addition, the GST Act provides concessions for a partially exempt business to be treated as fully taxable if it makes only certain types of exempt supplies.

Repayments

If the amount of input tax recoverable in a GST period exceeds the output tax in the same period, the excess is refundable. Refunds are generally made within three months after the date

when the Comptroller receives the GST return. If a taxable person submits monthly returns, the refund is generally made within one month from the date of receipt.

Interest at the rate of 2.13% per annum is payable on the amount of any GST refund that is outstanding. Interest is calculated from the day the refund is due from the tax authorities.

G. Recovery of GST by Non-Established Businesses

Singapore does not refund GST incurred by non-established businesses that are not registered for GST in Singapore. A non-established business that is registered for GST may obtain a refund of GST only through the filing of GST returns.

H. Invoicing

Tax Invoices and Credit Notes

A taxable person must issue a tax invoice for standard rated supplies made to another taxable person within 30 days. A simplified tax invoice may be issued if the amount payable (including GST) does not exceed S\$1,000. The formats of a tax invoice and a simplified tax invoice are prescribed by the GST legislation.

A tax invoice is necessary to support a claim for input tax credit.

A credit note may be used to reduce the GST charged and reclaimed on a supply of goods or services if there is a valid adjustment. The document must contain generally the same information as a tax invoice, as well as the amount of tax credited, and it must refer to the date and number of the original tax invoice for the supply. If the date and number of the original tax invoice for the supply cannot be traced or identified, the Comptroller may allow the credit note to be issued without reflecting the GST adjustment on it, subject to an agreement to be made in writing by both the supplier and the GST-registered customer concerning the arrangement. In other words, both the supplier and the GST-registered customer must reduce the taxable supplies and purchases in their GST returns respectively. GST need not be adjusted for the goods returned.

Proof of Exports

Exports of goods are zero-rated for GST purposes provided they are supported by evidence confirming the departure of the goods from Singapore. The evidence required includes the following documents:

- Export permit;
- Bill of lading or airway bill; and
- Original invoice.

Foreign Currency Invoices

If a tax invoice is issued in a foreign currency, the total amount payable before GST, the GST chargeable, and the total amount payable including GST must be converted to the Singapore dollar (S\$) equivalent. The foreign currency should be converted to the Singapore dollar equivalent based on the selling rate of exchange prevailing at the time of supply. In practice, the Comptroller would allow companies to apply the daily exchange rates (that is, the buying or selling rate, or the average of the two)

of any banks operating in Singapore, or the exchange rates published by Singapore Customs. The Comptroller has recently extended the sources of acceptable exchange rates provided they are:

- Reflective of the Singapore money market at the relevant date (for example, exchange rates obtained from local banks, the Singapore Customs, local circulated newspapers, reputable news agencies and foreign central banks without exchange controls are acceptable to the IRAS);
- The daily buying rates, average of the buying and selling rates, or a good approximation of the daily exchange rates, corresponding to the time of supply;
- Updated at least once every three months;
- Consistently used for internal business reporting, accounting and GST purposes; and
- Used consistently for at least one year from the end of the accounting period in which the method was first used.

If the exchange rates used by businesses do not comply with these conditions, it is necessary for the companies involved to seek the Comptroller's approval to agree on the use of an acceptable exchange rate.

I. GST Returns and Payment

GST Returns

Taxable persons generally file GST returns quarterly. However, taxable persons that receive regular refunds of GST may seek approval to file their returns monthly, to ease cash flow.

The GST return, together with payment in full, must be submitted by the last day of the month following the end of the return period.

Penalties

A penalty of 5% of the tax due is assessed for late payment of GST. If the amount remains outstanding after 60 days, an additional penalty is assessed at 2% of the tax due for each month, up to a maximum of 50% of the unpaid tax.

A penalty of S\$200 per month is assessed for the late submission of a GST return, up to a maximum of S\$10,000 of the unpaid tax.

Criminal offenses connected with GST may be punished by a maximum fine of S\$5,000. In default of payment of the fine, a term of imprisonment not exceeding 6 months applies.

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| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Dan z pridanej hodnoty (DPH) |
| Date Introduced | 1 January 1993 |
| European Union (EU) Member State | Yes (with effect from 1 May 2004) |
| Administered by | Ministry of Finance http://www.finance.gov.sk Tax Directorate http://www.drsr.sk |
| VAT Rates | |
| Standard | 19% |
| Reduced | None |
| Other | Exempt and Zero-Rated |
| VAT Number Format | SK0123456789 |
| VAT Return Periods | Monthly Quarterly (turnover below SKK 10 million for the previous year; VAT payers may elect to file monthly, regardless of turnover) |
| Thresholds | |
| Registration | Turnover of SKK 1.5 million in a maximum period of 12 consecutive calendar months (approximately €38,000) |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods effected for consideration within the territory of the country by a taxable person, acting as such;
- The supply of services effected for consideration within the territory of the country by a taxable person acting as such;
- The acquisition of goods for consideration from another EU Member State (see the chapter on the European Union); and
- The importation of goods.

In addition, VAT applies to the following transactions:

- The supply of goods by the VAT payer for his private use, for the private use of his staff, goods supplied free of charge or supplied for any other purpose than that of the VAT payer's business, if the input VAT was wholly or partly deductible;
- The supply of services carried out by the VAT payer free of charge for his own private use, for the private use of his employees or for any other purpose than that of his business, if the input VAT was wholly or partly deductible;

- The relocation of goods owned by a taxable person from the Slovak Republic to another EU Member State (or vice versa) effected by this taxable person or on his account for the purposes of his business (although exceptions apply – see the chapter on the European Union); and
- The use of tangible assets in the possession of the VAT payer for his private use, for the private use of his staff or for other purpose than that of his business, if the VAT on such assets was wholly or partly deductible.

C. Who Is Liable

A “taxable person” is any business entity or individual that independently performs any economic activity regardless of purpose and results of such activity.

The VAT registration threshold for taxable persons that have their seat, place of business or a fixed establishment in the Slovak Republic (“Slovak taxable persons”) is a turnover of SKK 1.5 million in a maximum period of 12 consecutive calendar months. A Slovak taxable person, whose turnover equals or exceeds the registration threshold, must file a VAT registration application by the 20th day of the month following the month when the threshold was reached.

“Turnover” for these purposes includes revenues (income) from all supplies of goods and services (both taxable and zero-rated) made in the Slovak Republic and advance payments relating to these supplies. Revenue (income) generated from supplies that are exempt from VAT without input deduction (see Section D *VAT Rates*) is generally excluded from this definition. However, revenue (income) from insurance and financial services does count (if these services are not provided as ancillary to the main taxable supply). Revenue (income) from the occasional sale of tangible and intangible property is excluded from the definition of taxable turnover.

Intra-Community Acquisitions

The VAT registration threshold for Slovak taxable persons and for Slovak non-taxable legal persons that acquire goods in the Slovak Republic from other EU Member States is a value of SKK 420,000 of goods acquired in a calendar year. This type of VAT registration does not confer on the person the status of a VAT payer (that is, no input VAT deduction is possible). It only serves the purpose of allowing the person to pay the due VAT on the goods acquired. Registration is due prior to achieving the threshold.

Group Registration

VAT grouping is not permitted under Slovak VAT law. Legal entities that are closely connected must register for VAT individually.

Legal entities that carry out activities jointly under an association agreement (or a similar agreement), and whose aggregate turnover exceeds the registration threshold, must register for VAT individually. Transactions between such entities, however, remain to be subject to VAT.

Non-Established Businesses

A “non-established business” is a foreign business that has no seat, place of business or fixed establishment in the territory of the Slovak Republic. A non-established business is obliged to register for VAT in the Slovak Republic immediately after it starts performing activities that are within the scope of Slovak VAT.

VAT registration is carried out at the following designated office:

Tax Office Bratislava I
(Danovy urad Bratislava I)
Radlinskeho 37
P.O.BOX 89
817 89 Bratislava

Call-off Stock Simplification

A simplification rule applies in the Slovak Republic for intra-Community supplies of intra-Community supplies of “call off” stock, that is goods held in a warehouse that remain in the ownership of the supplier until they are “called off” by the purchaser (see chapter on the European Union). The simplification rule applies for a supply of goods from another EU Member State transferred into a warehouse in the Slovak Republic by a supplier registered for VAT in the other EU Member State and sold to a specific customer who is a Slovak taxable person.

In these circumstances, the Slovak customer is liable to pay VAT on the intra-Community acquisition of the goods. The foreign supplier is not liable for VAT. As a result, the foreign supplier is not obliged to register for VAT in the Slovak Republic. The tax point occurs upon delivery of goods to the warehouse. In order to use the simplification, announcing in writing to the respective tax authority of is necessary.

Import VAT Representative

A foreign entity may appoint a VAT representative for the purposes of making exempt importations of goods. The foreign entity must appoint the representative using a power of attorney. The VAT representative is obliged to submit tax returns on a calendar quarterly basis on behalf of the importers. As a result, the importer of goods is not obliged to register for VAT purposes in the Slovak Republic.

Reverse charge Services

A Slovak taxable person is obliged to pay VAT in respect of any services provided from another EU Member State or from a third country, if the services are taxable and the place of supply of the services is the Slovak Republic. VAT is accounted for using the reverse charge mechanism – that is, the recipient of the service must account for VAT on the service, but is also entitled to recover the VAT charged as input tax, subject to its meeting certain conditions (see Section D *VAT Rates* and Section F *Recovery of VAT by Taxable Persons*).

A Slovak taxable person is not generally obliged to apply the reverse charge if the service provider is registered for VAT in the Slovak Republic (in that case the service provider must account for the Slovak VAT due). However, the reverse charge does apply if a Slovak taxable person receives any of the intangible services

listed in Article 9 (2) (e) of the EU Sixth Directive from abroad (see the chapter on the European Union) regardless of whether the service provider is registered for VAT in the Slovak Republic, unless the services are provided from a fixed establishment in the country. If these services are provided to non-taxable legal persons or to individuals, the country where the supplier is established is considered to be the place of supply for these services.

D. VAT Rates

With effect from 1 January 2004, a single unified VAT rate of 19% applies to all taxable transactions. No reduced rate applies in the Slovak Republic. This rate applies to all supplies of goods or services, unless a specific provision of the VAT law stipulates a zero rate or allows an exemption.

The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). If supplies are classified as “zero-rated,” no VAT is chargeable, but the supplier may deduct related input tax. Zero-rated supplies include, among others, exports of goods, supply of certain services related to exports of goods, supply of services where the place of taxable transaction is abroad, intra-Community supply of goods as well as international transport.

The following table lists examples of exempt and zero-rated supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Postal services
 Healthcare (except for supplies of pharmaceuticals and health aids)
 Public radio and television broadcasting (except for broadcasting of commercials and sponsored programs)
 Education
 Financial services
 Services related to sports and physical education
 Cultural services
 Social welfare
 Lotteries and similar games
 Transfer and lease of real estate (options to tax available for both)
 Insurance and re-insurance
 Services (including public social and health insurance)

Examples of Zero-rated Supplies of Goods and Services (Taxable at 0%)

Exported goods
 Intra-Community supplies of goods
 Services related to export of goods
 International transport of persons
 Financial and insurance services if provided to a customer that is not established in the European Union

E. Time of Supply

The time when VAT becomes due is called the “chargeability of tax” or “tax point.” In the Slovak Republic, VAT generally becomes chargeable on the date when a taxable supply is performed.

The general rule stipulates the tax point for goods or services as the date of the supply of the goods or services, or the date of the receipt of the payment if it occurs prior to supply of goods or services. The date of supply of goods is defined as the date of acquiring the right to dispose of the goods as owner.

Continuous Supplies of Goods and Services

If goods or services are supplied partly or repeatedly over the duration of an agreement, the services are considered to be supplied on the last day of the period to which the payment for the goods or services relates, at the latest.

Intra-community Supplies and Acquisitions of Goods

The tax point for goods supplied to another EU Member State and meeting the conditions for exemption from VAT in the Slovak Republic is either the date of the issue of the invoice or the 15th day of the calendar month following the month when goods were supplied.

For intra-Community acquisitions, the tax point is either the date of the issue of the invoice or the 15th day of the calendar month following the month when the goods were acquired.

Reverse Charge Services Received

For reverse charge services received by a Slovak taxable person, VAT becomes chargeable on the date when the invoice is issued. If the invoice is not issued by the end of the third calendar month following the month when the services were provided, the tax point arises on the last day of the third calendar month. This rule also applies to reverse charge services that are supplied partly or repeatedly over the duration of an agreement.

Immovable Property

The tax point for a transfer of real estate is the date when the transfer of the property is registered in the Real Estate Cadastre or the date the property is made available for use to the purchaser, whichever occurs earlier. The tax point for the supply of a newly constructed building is the date of the handing over of the building.

Imported Goods

The tax point for imported goods is when the customs authority accepts the customs declaration for their release into a customs regime or, if not applicable, when the liability to customs duties (including import VAT) arises in a different manner.

F. Recovery of VAT by Taxable Persons

A VAT payer is entitled to recover input tax, which is the VAT charged on goods and services received if it is directly attributable to the taxable person's own supplies for which a deduction entitlement exists (mostly taxable and zero-rated supplies).

Input VAT may generally be recovered by deducting it from output VAT, which is VAT charged on the supplies made. A VAT payer is entitled to deduct input VAT if the tax point for the supply in question has arisen on output and the VAT payer holds a valid VAT invoice or import document. The VAT payer is entitled to deduct input VAT in the tax return for the VAT period to which the invoice relates, as long as he holds the invoice by the time the VAT return for that period is filed. Alternatively, the deduction may be made in the subsequent tax period. If the invoice is not available until the filing deadline of the subsequent VAT period, the deduction may be made in the period when the invoice is available. Input VAT relating to certain transactions may be deducted in the tax period when the tax is chargeable, including:

- reverse charge services; and
- goods supplied with assembly and installation supplied by a foreign taxable person.

For these supplies, it is not necessary to hold an invoice.

For imported goods, VAT must have been paid to the customs authority to be eligible for the deduction.

Non-Deductible Input Tax

Input VAT may not be recovered by a VAT payer in the following circumstances:

- VAT that relates to activities that are not business activities;
- VAT that relates to the making of exempt supplies; and
- VAT incurred on items of expenditure for which recovery is specifically excluded (for example, input tax related to entertainment or to passenger cars).

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase, lease or hire of passenger cars and accessories
 Business entertainment
 Returnable bottles

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease or hire of vans and trucks
 Taxis
 Hotel accommodation
 Fuel used for business purposes
 Business use of mobile telephones
 Business gifts marked with the supplier's name worth less than SKK 500 each (not taxed on output)
 Commercial samples of goods for advertising purposes (not taxed on output)
 Parking

Partial Recovery (Partial Exemption)

Input tax on goods that are partially used for business and also for non-business purposes is generally deductible; however, output VAT should be paid on the non-business use. For fixed tangible assets intended to be used partially for business and non-business purposes, the VAT payer may opt not to deduct a portion of the input VAT that reflects of the non-business use of these assets. As a result, the use of these assets for non-business purposes is not subject to VAT.

For services received by a taxable person, that are intended to be used for both, business and non-business purposes, the VAT payer is not allowed to deduct VAT relating any non-business use. However, if the VAT payer does not expect to use the services for non-business purposes, it may deduct input VAT relating to the entire consideration for the services. If the services are subsequently used for non-business purposes, the VAT payer must account for output VAT (VAT on sales) on the portion of the consideration that is attributable to the non-business use of the services.

For goods and services that are also partially used for the provision of exempt supplies, only the portion of VAT related to taxable supplies may be deducted. The term “taxable supplies” includes, for these purposes, zero-rated supplies, and supplies that are specifically excluded from the application of VAT with entitlement to input VAT deduction.

The deductible proportion is calculated based on the total revenue (income) generated from taxable supplies made (those where the input tax is deductible), divided by the total revenue (income) from all supplies made. All values are exclusive of VAT.

The following taxable supplies are excluded from the calculation of the deductible proportion:

- Incidental financial services exempt from VAT;
- The sale of an enterprise or of its part (transfer of going concern);
- The sale of business assets (capital goods) excluding inventory;
- Incidental real estate transactions (transfer or leasing and letting of immovable property); and
- The sale of returnable bottles (excluding those sold to other EU Member States or exported).

The deductible proportion is calculated for the whole financial year and is rounded up to the nearest whole percentage. During the current financial year, the deductible proportion calculated for the previous year is used. If there is no percentage for the prior year, the VAT payer may use a percentage agreed with the tax authorities.

Refunds

If the amount of deductible VAT in a VAT period exceeds the amount of output VAT in that tax period, the VAT payer may offset the difference with a VAT liability in the following tax period. The remaining difference between the amount of deductible VAT and output VAT that may not be off-set shall be refunded to a VAT payer by the tax authorities within 30 days after the date of the submission of a VAT return for the later period. If the VAT

authorities carry out a tax audit to verify the VAT payer's entitlement to the refund, the refund must be repaid within 10 days after the VAT authorities complete the tax audit.

G. Recovery of VAT by Non-Established Businesses

The Slovak Republic refunds VAT incurred by businesses that are neither established nor registered for VAT there.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

In the Slovak Republic, the conditions for refunds are the same for EU businesses as well as for non-EU applicants.

In order to claim a refund, a foreign business must meet all of the following requirements:

- The foreign entity is a registered VAT payer abroad or a registered payer of a similar general consumption tax;
- The foreign entity does not have a registered office, fixed establishment or place of business in the Slovak Republic, during the period for which the VAT refund is requested;
- The goods or services were purchased or goods were imported in the Slovak Republic for the purpose of the foreign entity's business conducted abroad;
- The input VAT is recoverable under Slovak legislation; and
- During the period for which the VAT refund is requested, the foreign entity neither sold goods nor provided services in the Slovak Republic, other than the following:
 - Services of international transportation of persons;
 - Transportation and auxiliary services related to export and import of goods;
 - Services and goods with their assembly and installation, in respect of which the Slovak customer was the person liable to pay tax (reverse-charge);
 - Electricity and gas if the Slovak customer was the person liable to pay tax; and
 - Goods supplied to other EU Member States if such goods were imported in the Slovak Republic VAT exempt if the foreign entity was represented by an import VAT representative (see Section C *Who Is Liable*).

The Slovak tax authorities reject the application for a refund if the country where the applicant's foreign business is registered does not provide VAT refunds to Slovak VAT payers (or refunds of any similar consumption tax).

Refund Application

The application must be submitted using the form issued by the Slovak tax authorities, completed in the Slovak language.

Requests must be filed with the Tax Authority Bratislava 1 by 30 June of the year following the year when the VAT was incurred or the import VAT was paid. The request must be filed together with the following documents:

- The original invoices or import documents (for imports, also documents evidencing payment of the tax); and

- A certificate of status issued by the applicant's local tax authority confirming that the applicant is registered for VAT in the country where it is established or has its permanent address.

An annual claim may be filed if total VAT incurred exceeds SKK 1,000 for the calendar year. Claims for shorter periods (at least three calendar months) may be filed prior to year-end if total VAT incurred during the period is at least SKK 8,000.

The relevant office (Tax Authority Bratislava 1) must decide on the application for the refund within 6 months from the date of filing the request.

H. Invoicing

VAT Invoices

A registered VAT payer is obliged to issue a VAT invoice for all taxable supplies provided to a taxable person or to a non-taxable legal person no later than 15 days after the date the tax was chargeable (usually the date of supply of goods or services or the day when the advance payment is received). The VAT payer is not obliged to issue the VAT invoice for domestic supplies that are VAT exempt. The VAT Act also allows the issue of a simplified VAT invoice (such as till receipts or cash-register bills) if certain conditions are met.

A registered taxpayer is also obliged to issue an invoice within the same time period for supplies of goods and services made to another EU Member State, under certain conditions (see the chapter on the European Union).

A VAT invoice is necessary to support a claim for input tax deduction (with the exception of reverse charge services received from abroad).

Corrective Invoices

If the tax base for a supply must be corrected due to a decrease or increase in the price, the cancellation of the supply, or the return of the goods, the VAT payer is obliged to issue a corrective invoice, credit note or debit note, that is, a VAT document used for the correction of the taxable amount). Each tax document correcting the original invoice is considered to be a VAT invoice.

A credit note or debit note must contain the serial number of the original VAT document and indicate the difference between the original value and tax charged, and the revised amounts.

Proof of Exports and Intra-Community Supplies

Goods exported outside of the European Union or supplied to a taxable person in another EU Member State are zero-rated for a VAT payer that sells to a foreign entity or to a foreign branch of a Slovak entity. A VAT payer that exports goods or supplies goods to other EU Member States is, generally, entitled to recover the related input VAT.

However, to qualify as VAT-free, exports must be supported by evidence that confirms the fact that goods were exported abroad. A VAT payer must substantiate the export of the goods with a written customs declaration for the release of the goods into the

customs regime of export certified by a customs authority and a transport document.

Under the current wording of the VAT law, the proof of export should be acceptable also where the seller does not undertake the export himself, but sells the goods to a person that exports them subsequently. In this situation, the supplier should hold a copy of the export document issued to the purchaser and stamped by the customs authorities.

In order to qualify for exemption, an intra-Community supply of goods must meet the following conditions (see the chapter on the European Union):

- Transport document or other document on dispatch of goods in which the place of destination is stated, if the transport is arranged by the supplier or the customer through a third entity;
- Written confirmation of the receipt of goods by the customer or by a person empowered by him, if the transport is performed by the supplier;
- Written declaration of the customer or a person empowered by him that the goods were transported to another EU Member State if transport is performed by the customer; and
- Other documents, for example, contract on the supply of goods, delivery note, document confirming receipt of payment for the goods.

Foreign Currency Invoices

If the payment for a taxable supply is requested in a foreign currency, the VAT must be converted into Slovak crowns (SKK) using the exchange rate published by the National Bank of Slovakia on the date of tax point. Alternatively, the VAT payer can opt for a single customs foreign exchange rate to be used over a calendar month. This option may not be revoked during the entire calendar year. For imports, the customs foreign exchange rate rules apply.

I. VAT Returns and Payment

Slovak VAT returns must be submitted by the 25th day after the end of the tax period. Payment in full is due by the same date.

Penalties

The penalties for non-compliance with VAT registration and reporting requirements range from SKK 2,000 to SKK 100,000.

The penalty for the late submission of a tax return after the statutory deadline is 0.2% of the tax liability declared in the tax return for every day of delay, not less than SKK 2,000, to a maximum of 10% of the tax liability declared in the tax return, up to SKK 1 million.

Penalty interest applies if VAT liability is not paid on time. Penalty interest is equal to four times the basic interest rate of the National Bank of Slovakia (currently 4% x 4 totaling 16% a year).

A flat penalty of an amount equal to the prime rate of the National Bank of Slovakia (currently 4%) multiplied by three applies if the VAT liability or excess VAT refund declared by the VAT payer in the tax return is lower than the one assessed by the

tax authorities. The penalty is calculated on the difference between the value declared in the tax return and VAT assessed by the tax authorities, and is not based on the time period involved.

If the negative difference is declared by the VAT payer in a supplementary VAT return, the flat penalty is decreased to a half.

Penalties also apply to late submission of EU reports (see Section J *EU Declarations*).

Intentional tax evasion may be regarded as a criminal offense, resulting in fines or imprisonment (for a term of up to 8 years, depending on the amount of tax evaded).

J. EU Declarations

INTRASTAT

A Slovak taxable person that trades with other EU Member States must complete statistical reports, known as INTRASTAT, if the value of goods dispatched/received exceeds certain thresholds. Two INTRASTAT turnover thresholds apply – the assimilation threshold and the simplification threshold (see below). Separate reports are required for intra-Community acquisitions (INTRASTAT Arrivals) and for intra-Community supplies (INTRASTAT Dispatches).

INTRASTAT information is reported each calendar month (the reference period). Each report must be submitted to the local customs authority by the 15th day of the month following the reference period.

Assimilation Threshold

The assimilation threshold is SKK 3 million (€75,000) for arrivals and SKK 6 million (€150,000) for dispatches. If the VAT payer's turnover for the previous calendar year did not exceed these thresholds, it is not obliged to submit an INTRASTAT report.

Simplification Threshold

The simplification threshold is SKK 12 million (€300,000) for arrivals and SKK 30 million (€750,000) for dispatches. If the VAT payer's turnover did not exceed these thresholds (but has reached the assimilation threshold), the VAT payer is obliged to report the 10 most important sub-items of the combined nomenclature only; other sub-items may be summarized in a single item. If the VAT payer exceeds the simplification threshold, it is required to complete a full INTRASTAT report.

If the VAT payer does not exceed the assimilation thresholds, or if the entity is not a Slovak VAT payer, the obligation to report the intra-Community movement of goods using INTRASTAT does not exist. Eligible VAT payers are also obliged to complete and submit INTRASTAT declarations for months with zero movements of goods.

A penalty may be imposed for late submission or for missing or inaccurate declarations up to SKK 100,000 (€2,500).

EU Sales Listings

If a Slovak entity makes intra-Community supplies of goods from the Slovak Republic to a taxable person registered for VAT in another EU Member State, it will be obliged to include the transaction in an EC Sales Listings (ESL). Only VAT exempt supplies of goods to other EU Member States must be reported in the ESL.

ESLs must be submitted on a calendar quarterly basis by the 25th day following the end of the quarter together with the VAT return.

If a VAT payer fails to submit an ESL within the statutory deadline, a one-off penalty of SKK 10,000 applies. In the event of a repeated failure to submit ESLs on time, the penalty equals to SKK 20,000.

SLOVENIA

Country Code 386

LJUBLJANA**GMT +1**

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1000 Ljubljana
Slovenia

Indirect Tax Contact

Marjetka Suligoj

1 568 04 11**E-mail: marjetka.suligoj@si.ey.com****A. At a Glance**

| | |
|----------------------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Names | Davek na dodano vrednost (DDV) |
| Date Introduced | 1 July 1999 |
| European Union (EU) Member State | Yes (since 1 May 2004) |
| Administered by | The Ministry of Finance (Tax Administration) http://www.sigov.si/durs/ |
| VAT Rates | |
| Standard | 20% |
| Reduced | 8.5% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | SI12345678 |
| VAT Return Periods | Monthly Quarterly Six-monthly (For businesses not established in Slovenia, monthly periods apply) |
| Thresholds | |
| Registration | None for businesses not established in Slovenia |

| | |
|---|---|
| € | SIT 5 million in the previous 12 months – for businesses established in Slovenia (approximately €21,000) |
| | SIT 1.5 million based on the cadastral income from agricultural and forestry land for agricultural and forestry activities (approximately €6,250) |
| Distance Selling | €35,000 |
| Intra-Community Acquisitions | None |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Slovenia by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person;
- Reverse charge services received by a taxable person in Slovenia; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

Special rules apply to intra-Community transactions involving new means of transport and distance sales (see chapter on the European Union).

C. Who Is Liable

A “taxable person” is any person who independently carries out anywhere an economic activity, whatever the purpose or result of that activity.

VAT registration required before the commencement of taxed activity in Slovenia. According to the current VAT legislation, retrospective VAT registration is not possible.

Group Registration

VAT group registration is not allowed under the Slovenian VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no establishment in the territory of Slovenia. A non-established business that makes supplies of goods or services in the territory of Slovenia is liable to account for VAT on these supplies.

A non-established business must, therefore, register for VAT if it makes any of the following supplies:

- Intra-Community supplies;
- Intra-Community acquisitions;
- Distance sales in excess of the threshold; and

- Supplies of goods and services that are not subject to the reverse charge (for example goods or services supplied to private persons).

Tax Representatives

A foreign entity (taxable person) who doesn't have a registered business or fixed establishment in Slovenia may appoint a tax representative. Any legal entity or an individual, who is a taxable person registered for VAT in Slovenia can be appointed a tax representative. According to Slovenian VAT legislation a tax representative is jointly liable for all tax obligations of the foreign entity.

If a foreign entity chooses not to appoint a tax representative in Slovenia, it must authorize a person to receive all writings and documentation from the authorities on his behalf.

Reverse Charge

The reverse charge applies to supplies of certain services made by non-established business to taxable persons registered for VAT in Slovenia. The recipient of the services accounts for VAT using the appropriate Slovenian VAT rate. If reverse charge applies, non-established supplier is not required to register for VAT in Slovenia.

Late Registration Penalties

A penalty may be imposed for late registration or failure to register for VAT in Slovenia and for late filing or failure to file VAT returns. Penalties vary from SIT 300,000 (approximately €1,250) to SIT 10,000,000 (approximately €41,680). For late payment or non payment of VAT a penalty ranging between SIT 500,000 and 30,000,000 (approximately €2,080 to €125,000) may be imposed. Additionally, interest for late payment is charged at the rate of 15.5%. Penalties ranging from SIT 50,000 (approximately €210) to SIT 1,000,000 (approximately €4,170) may be imposed on the responsible person of the legal entity who commits the offence, in addition to the company itself.

D. VAT Rates

The term "taxable supplies" refers to supplies of goods and services that are liable to any rate of VAT, including the zero rate. The term "exempt supplies" is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to the right to input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as "exempt with the right to deduct input VAT," which means that no VAT is chargeable; however, the supplier may recover related input tax. "Exempt with the right to deduct input VAT" supplies include exports of goods outside the European Union and related services and intra-Community supplies of goods and intangible services supplied to another taxable person established in the European Union, or to any recipient outside the European Union (see the chapter on the European Union).

In Slovenia, two VAT rates currently apply – standard rate at 20% and reduced rate at 8.5%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 8.5% |
|--|--|
| Real estate transactions (except "new buildings") | Foodstuffs (except alcoholic drinks and catering services) |
| Financial services | Water supplies |
| Insurance transactions | Passenger transport |
| Betting, gambling and lotteries | Books, newspapers and periodicals |
| Public radio and television broadcasts | Services of authors and composers |
| Education | Agricultural products and services |
| Healthcare and medical services | Pharmaceutical products and medical equipment |
| Cultural services | Cultural events |
| | Hotel accommodation |
| | Use of sports facilities |
| | Services of undertakers and ceremonial services |

E. Time of Supply

The time when VAT becomes due is called "chargeable event" or "tax point." In Slovenia, VAT becomes due when the chargeable event occurs, as follows:

- VAT is due when goods are delivered or when services are performed;
- If an invoice is issued before goods are delivered or services are performed, VAT is due on the date of the invoice; and
- If no invoice is issued for supplied goods or services, VAT is due on the last day of the tax period (month) in which goods are delivered or services performed.

Prepayments

If payment is effected before the supply is made (prepayment), VAT is due on the day when the prepayment is made. For intra-Community acquisitions or supplies of goods, prepayments do not create a tax point.

Intra-Community Acquisitions

For intra-community acquisition of goods, VAT is due on the 15th day following the month in which goods are delivered. If an invoice for the supply is issued before this date, VAT is due on the date of the invoice.

Imported Goods

VAT for imported goods becomes due when the import is effected, or when goods leave duty suspension regime and are released for free circulation.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Slovenia, VAT paid on imports of goods and self-assessed VAT on intra-Community acquisition of goods and reverse charge services (see chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax recovery.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and examples of items for which input tax is deductible providing the expenditure is related to a taxable business use. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Accommodation
Purchase, lease, fuel and maintenance of cars and boats (except if used by driving schools or for public transportation)
Business entertainment
Employee entertainment
Accommodation and food

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Advertising
Purchase, lease, fuel and maintenance of buses and trucks
Telephone
Books, newspapers
Attendance at seminars (except food and drink)
Raw materials

Partial Exemption

Input tax directly related to the making of exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies it may not recover input tax in full. This situation is referred to as “partial exemption.”

Input tax directly relating to taxable supplies is fully recoverable, while input tax directly relating to exempt supplies is not recoverable.

To determine the amount of input VAT that may be recovered one of the following methods may be used:

- Deduction of input VAT using actual data, provided the taxable person keeps in its books of account or other records information of the total amount of input VAT including the amount of input VAT which is deductible;

- Determination of the amount of deductible input VAT using a pro rata for the whole business, if the taxable person is unable to determine the amount of input VAT as described above; or
- Determination of the amount of deductible input VAT using several deductible amounts for each of its various fields of business activity separately. A “field of business activity” means any level of activity of the taxable person according to a standard classification of activities or organizational units of the taxable person (such as a separate plant or business unit).

The pro rata is calculated using the following method:

The total annual supplies on which input VAT is deductible exclusive of VAT divided by total annual supplies on which VAT is not deductible including state subsidies and grants.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage changes during the adjustment period.

In Slovenia, capital goods adjustment applies to the following assets for the number of years indicated:

- Real estate (adjusted for a period of 20 years);
- Other tangible fixed assets (adjusted for a period of 5 years).

Refunds

If the amount of input tax recoverable in a tax period exceeds the amount of output tax payable in that same period, the taxable person has an input tax credit. An input tax credit is carried forward to the following VAT tax period. However, a VAT registered person is entitled to a refund of the input tax credit within 60 days after submitting a VAT return form for any tax period if the input tax credit exceeds a certain amount:

- SIT 200,000 (€840 in a monthly tax period);
- SIT 100,000 (€420 in a quarterly tax period); and
- SIT 30,000 (€125 in a six-month tax period).

If the input tax credit does not exceed these amounts, the input tax credit may be claimed after submitting the last VAT return for the calendar year.

Exporters are entitled to a refund within 30 days of submitting a VAT return form.

Repayment Interest

The tax authorities pay interest on delayed repayments of VAT. The statutory rate of interest is 15.5% a year.

G. Recovery of VAT by Non-Established Businesses

Slovenia refunds VAT incurred by businesses that are neither established nor registered for VAT in Slovenia. A non-established business is allowed to claim Slovenian VAT to the same extent as VAT registered business.

For businesses established in the European Union, refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EU 13th Directive. Slovenia applies condition of reciprocity in respect of refund claims, which may exclude applicants from some non-EU countries.

For the general VAT refund rules applicable to the EU 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June following the calendar year in which the tax was incurred. This deadline is strictly enforced.

Claims must be submitted in the Slovenian language. Application for refund must be accompanied by the relevant documentation (see the chapter on the European Union).

The minimum claim period is six months. The minimum claim for a period of less than a year is SIT 50,000 (approximately €210). The maximum period is one year. For an annual claim the minimum amount is SIT 12,000 (approximately €50). The claim period can be shorter than six months if this period represents the rest of the calendar year.

The tax authorities must stamp each submitted invoice and import document and return them to the claimant within 30 days of receipt. The tax authorities must also rule on the claim within six months of the submission of the claim. If the claim is approved, the refund is processed within six months of the submission of the claim by either remitting payment into a Slovenian bank account or transfer abroad (the claimant is responsible for all expenses related to this repayment).

Applications for refunds of Slovenian VAT should be sent to the Ministry of Finance of Slovenia, Tax Administration, Ljubljana Tax Office, at the following address:

Davāni urad Ljubljana
p.p. 107
Dunajska cesta 22
1001 Ljubljana
Slovenia

Repayment Interest

The tax authorities do not pay interest on delayed 8th and 13th Directive of VAT refunds.

H. Invoicing

VAT Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not required for a limited range of supplies, including the following:

- Supplies by taxpayers who perform agricultural or forestry activities and sell these products and services to final consumer; and

- The sale of tickets, season tickets and tokens for passenger transport (train, bus, cable cars), stamps, court stamps, postal forms, periodicals, vending machine sales, sale of mobile phone cards by ATM, GMS network and the Internet, sale of tokens from change machines.

A VAT invoice is necessary to support claim for input tax deduction or refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A credit note may be issued if the taxable amount subsequently changes due to the return of goods, the granting of a discount or the recipient's inability to pay. The taxable person may adjust (reduce) the amount of VAT payable by virtue of a credit note, but only if the recipient of the supply adjusts (reduces) the deduction of input VAT and informs the supplier in writing that it has done so. A credit note must contain all the information prescribed for an invoice including a reference to the invoice.

Proof of Exports and Intra-Community Supplies

Slovenian VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Slovenia. Acceptable proof includes the following documentation:

- For an export, a copy of the export document, officially certified by Customs. In certain cases also an invoice stamped by the Customs, a mail freight declaration, a transport document are acceptable; and
- For an intra-Community supply, an invoice with the purchaser's VAT identification number and corresponding transport document (or other suitable document which clearly refers to the freight of goods from the invoice).

Foreign Currency Invoices

Invoices may be issued in a foreign currency. VAT amount must always be in Slovenian Tolars (SIT). If the gross amount is indicated on the invoice, it must also be shown in Tolars. The exchange rate to be used is the median exchange rate of the Bank of Slovenia.

I. VAT Returns and Payment

VAT Returns

Slovenian VAT returns are submitted for monthly, quarterly or six-monthly tax periods. Quarterly and sixth-monthly tax periods coincide with calendar months (that is, March, June, September and December for quarterly returns and June and December for six-monthly returns). A tax period for each taxable person is determined on the basis of its turnover in the last calendar year as follows:

- Taxable persons with turnover up to 10 million SIT (€ 41,700) six month tax periods;
- Taxable persons with turnover up to 20 million SIT (€83,400) three-month tax periods; and
- Taxable persons with turnover greater than 20 million SIT (€83,400) monthly tax periods.

The tax period for newly established taxable persons is a calendar month for the first 12 months of business activity. The tax period for foreign taxable persons (non-established businesses) is always a calendar month.

VAT returns must be submitted and any VAT due must be paid in full on the last working day of the month following the end of each tax period.

Penalties

Penalties are imposed for a range of VAT offenses, as follows:

- Late filing or non-filing of a VAT return a penalty ranging from 300,000 SIT to 10 million SIT (approximately €1,250 to €41,700);
- Late or non-payment of VAT, a penalty ranging from 500,000 SIT to 30 million SIT (approximately €2,100 to €125,000); and
- A responsible person of a taxable entity, who commits an offense, may be fined a amount from 50,000 SIT to 1 million SIT (approximately €200 to €4,170).

Interest

Default interest is imposed for the late payment of VAT due. The statutory rate of default interest is 15.5% a year.

Criminal Offenses

The criminal offense of tax evasion is punishable by a term of imprisonment ranging from three to eight years.

J. EU Declarations

INTRASTAT

A Slovenian 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 calendar year 2005 is €100,000.
- The threshold for INTRASTAT Dispatches for the calendar year 2005 is €100,000.

In addition, entities whose intra-Community trade exceeds €3 million for Arrivals or €7 million for Dispatches must report additional information, such as the statistical value of goods, means of transport and conditions of supply.

INTRASTAT returns should be submitted no later than the 15th day of the month following the reporting period (calendar month). If the 15th day is a non-working day, INTRASTAT return should be submitted on the last working day before the 15th day of the month.

INTRASTAT returns may be submitted in paper form, electronic format or via the Internet (<http://intrastat-surs.gov.si/>).

A penalty of up to 300,000 SIT (approximately €1,250) may be imposed for late submission or failure to submit an INTRASTAT declaration or for inaccurate declarations.

EU Sales Lists

If a Slovenian taxable person makes intra-Community supplies in any tax period, it must submit an EC Sales List (ESL) to the Slovenian VAT authorities. An ESL is not required for any periods during which the taxable person has not made any intra-Community supplies.

ESLs should be submitted quarterly, no later than the 10th day of the second month following the reporting period (calendar quarter). For example, ESL reports for the first calendar quarter ended 31 March, must be submitted no later than the 10th of May.

Penalties ranging from SIT 300,000 to 10 million (approximately €1,250 to €41,700) may be imposed for late submission or failure to submit and ESL and for inaccurate ESLs.

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| | |
|--|---|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 30 September 1991 |
| European Union (EU) Member State | No |
| Member of the South African Customs Union | Yes |
| Administered by | The Commissioner for South African Revenue Services (SARS) http://www.sars.gov.za |
| VAT Rates | |
| Standard | 14% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 4220122222 |

| | |
|---|---|
| VAT Return Periods | Monthly (annual taxable supplies in excess of R 30 million) Bimonthly (annual taxable supplies of less than R 30 million) Six-Monthly and Annually (in special cases) |
| Thresholds | |
| Compulsory Registration | Annual Taxable Supplies R 300,000 |
| Voluntary Registration | Annual Taxable Supplies between R 20,000 and R 300,000 Certain vendors providing commercial accommodation R60,000 |
| Recovery of VAT by Non-Established Businesses | Yes (in limited circumstances) |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in South Africa by a taxable person;
- Reverse charge services received by a taxable person in South Africa that is not entitled to claim full input tax credit (referred to as imported services); and
- The importation of goods from outside South Africa, irrespective of the status of the importer.

Goods that are imported from countries within the South African Customs Union (that is, Botswana, Lesotho, Namibia, South Africa and Swaziland) are not subject to customs duty but are subject to VAT.

C. Who Is Liable

A “vendor” is any person (business entity or individual) who conducts an enterprise and is registered, or is required to register for VAT, herein referred to as a “taxable person”.

The compulsory VAT registration threshold for 2005 is taxable supplies in excess of R300,000 in any 12-month period. A person must register for VAT if the threshold of R300 000 was exceeded in the preceding 12 months, or is expected to be exceeded in the following 12 months.

Voluntary Registration

A person whose turnover is below the compulsory registration threshold may register for VAT on a voluntary basis if the value of taxable supplies exceeds R20,000 in any 12-month period (excluding the provision of commercial accommodation, where the threshold is R60 000).

Group Registration

VAT grouping is not permitted under the South African VAT legislation. All legal entities must register for VAT individually. VAT is charged on transactions between separately registered entities within a commercial group in accordance with the general VAT rules, and subject to the rules relating to supplies between related persons.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of South Africa. A non-established business that makes taxable supplies of goods or services continuously or regularly in South Africa must appoint a tax representative in order to register for VAT. The VAT authorities may declare that any person is the VAT agent for any other person for the recovery of amounts due to the South African Revenue Service (SARS).

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a tax at either the standard rate or the zero-rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In South Africa, two rates of VAT currently apply – the standard rate at 14% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the zero rate or an exemption.

The following table lists examples of exempt and zero-rated supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Financial services
 Fare-paying passenger transport
 Educational services
 Child care
 Donated goods supplied by certain non-profit (charitable) bodies
 Residential accommodation
 Immovable property situated outside South Africa

Examples of Goods and Services Taxable at 0%

Exports of goods and related services
 International transport of passengers and goods, and related services
 Certain supplies of goods that are used exclusively in an export country
 Services supplied outside South Africa and to foreign branches or head offices
 Certain foodstuffs
 Goods used for agriculture
 Illuminating kerosene and leaded and unleaded gasoline
 Supply of gold coins issued by the Reserve Bank
 Supply of an enterprise capable of separate operation as a going concern (provided that all the requirements are met)
 Supply of fuel levy goods and certain fuels obtained from crude to be refined to produce fuel levy products.

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point”.

In South Africa, the basic time of supply is the earlier of the issue of an invoice or the receipt of payment.

Other tax points are used for a variety of situations, including betting transactions, metered supplies, supplies made from coin or token-operated vending machines, and “lay-by” sale agreements.

Supplies Between Related Persons

The tax point for supplies between related persons for a supply of goods is when they are removed by or made available to the purchaser or recipient of the goods. The time of supply for a supply of services between related persons is when the services are performed.

Supplies to a Branch or Main Business Outside South Africa

The tax point for goods consigned or delivered to a branch or main business outside South Africa is when the goods are actually consigned or delivered. The tax point for services supplied to a branch or main business outside South Africa is when the services are performed.

Periodic Supplies

The tax point for periodic supplies is the earlier of the date when payment is due, or the date when payment is received.

Installment Credit Agreements

The supply is deemed to take place at the earlier of the time when the goods are delivered or any payment of consideration is made.

Immovable Property

The supply of immovable property is deemed to take place at the earlier of:

- The date when the registration of the transfer is effected in a deeds registry; or
- The date when payment is received.

Imported Goods

The tax point for imported goods varies as follows, depending on the customs regime that applies to the import:

- For goods imported into South Africa, when the goods are cleared for home consumption;
- For goods that are imported from the South African Customs Union, at the border post when the goods are brought into South Africa; and
- For goods imported and entered into a customs and excise warehouse, when the goods are cleared from the warehouse for home consumption.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within South Africa and VAT paid on imports of goods and services.

Non-Deductible 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, or services utilized for making exempt supplies). In addition, input tax may not be recovered for some items of business expenditure.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase or hire of a motor car (subject to certain exceptions)
 Business and staff entertainment (subject to certain exceptions)
 Business gifts (to the extent that the gift constitutes "entertainment" as defined)
 Club subscriptions

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire and maintenance of vans and trucks
 Attendance at conferences and seminars
 Vehicle maintenance costs (including motor cars)
 Mobile Phones
 Air transport within South Africa
 Aviation fuel
 Trading stock
 Raw materials
 Marketing expenditure

Partially Deductible Input Tax (Partial Exemption)

Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full.

In South Africa, the amount of partial VAT that may be recovered is determined using a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered by applying an apportionment ratio. The calculation may be done using an apportionment based on the value of taxable supplies compared with total turnover, or by using another method acceptable to the South African VAT authorities.

Refunds

If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in that period, a refund of the excess may be claimed.

The South African VAT authorities pay interest if any refund claimed is not made within 21 business days after the submission of the VAT return. The interest rate is currently 10.5% per annum.

G. Recovery of VAT by Non-Established Businesses

VAT incurred by businesses that are neither established nor registered in South Africa may be recovered only in respect of goods that are subsequently exported from South Africa. A refund may be claimed from the VAT refund administrator. No claim may be made in respect of services (such as hotel accommodation and restaurant meals) consumed in South Africa.

H. Invoicing

VAT Invoices and Credit Notes

With effect from 1 March 2005, all taxable persons are required to issue a tax invoice for all supplies made if the consideration exceeds R 1,000. A supplier is obliged to issue a full tax invoice if the value of the supply exceeds R 1,000. If the value of the supply is less than R 1,000 but greater than R 50, the supplier may issue an abridged tax invoice.

In some cases, tax invoices need not be issued (for example, for certain periodic supplies). However, the supplier must generally first obtain approval from the South African VAT authorities.

A VAT credit note or debit note may be used to reduce VAT charged and reclaimed on a supply of goods or services. A “credit note” or a “debit note” may be issued only when the tax charged is incorrect or the supplier has paid incorrect output tax as a result of one or more of the following circumstances:

- The supply has been cancelled;
- The nature of the supply has been fundamentally varied or altered;
- The previously agreed consideration has been altered by agreement with the recipient of the supply; and
- The goods or services or a part thereof have been returned to the supplier.

If a credit note adjusts the amount of VAT charged, it must be clearly marked “credit note” and must refer to the original tax invoice. It must briefly indicate the reason it is being issued and provide sufficient information to identify the transaction to which it refers.

With effect from 1 March 2005, all tax invoices, debit notes and credit notes must reflect the VAT registration number of the recipient of the supply, where the recipient is registered as a vendor.

Proof of Exports

Supplies of exported goods are zero-rated. However, to qualify for zero-rating, exports must be supported by evidence that confirms the goods have left South Africa. Documentation that must be retained includes:

- The original customs export documentation (such as Form DA550, Form 178 and any export certificate or certificate of origin);
- Commercial and tax invoices for the supply;

- Transport documentation;
- Proof of payment; and
- The purchase order.

Foreign Currency Invoices

A tax invoice must be issued in rand (R), unless the invoice relates to a zero-rated supply. If an invoice is issued in a foreign currency, the rand equivalent must be determined using the appropriate exchange rate on the date when the invoice is issued.

I. VAT Returns and Payment

VAT Returns

The tax return period is monthly for persons with annual taxable turnover in excess of R 30 million. The tax return period is bimonthly for persons with annual taxable turnover below R 30 million. Other tax periods are available (six-month and annual) for special categories of person, but only with prior agreement with the South African VAT authorities.

Returns must be filed by the 25th day after the end of the tax period or, if returns are filed electronically, by the end of the month following the tax period. Payment is due in full by the same date. If the due date falls on a Saturday, Sunday or a holiday, the due date is the last business day before the 25th.

Penalties

A penalty of 10% is chargeable in respect of the net output VAT due if either the VAT return is submitted late or the VAT payment is made after the due date.

Interest is also charged on late payments of VAT, currently at a rate of 1% per month or part of a month.

A range of other offenses related to VAT are liable to penalties, including fines and, for severe offenses, imprisonment for a period not exceeding 24 months.

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| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto sobre el Valor Añadido (IVA) |
| Date Introduced | 1 January 1986 |
| European Union (EU) Member State | Yes |
| Administered by | The Ministry of Finance http://www.aeat.es |
| VAT Rates | |
| Standard | 16% |
| Reduced | 7% and 4% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | A – 1 2 3 4 5 6 7 8 or N – 1 2 3 4 5 6 7 C |
| VAT Return Periods | Monthly (if turnover exceeded €6,010,121 in the previous year or if exempt with credit turnover exceeds €120,202) |
| | Quarterly Annual statement (all taxable persons) |
| Thresholds | |
| Registration | None |
| Distance Selling | €35,000 |
| Intra-Community Acquisitions | None |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Spain by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person;
- Reverse charge services received by a taxable person in Spain; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes, the territory of Spain excludes Ceuta, Melilla and the Canary Islands.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services or intra-Community acquisitions, imports or distance sales, in the course of a business, in Spain.

No VAT registration threshold applies in Spain. A taxable person that commences activity must notify the VAT authorities of its liability to register.

Special rules apply to foreign or “non-established” businesses.

Group Registration

VAT grouping is not allowed under the Spanish VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A non-established business that makes supplies of goods or services in Spain must register for VAT if it is liable to account for Spanish VAT on the supply.

The “reverse charge” applies generally to supplies made by non-established businesses to taxable persons. Under this provision, the taxable person that receives the supply must account for the Spanish VAT due. If the reverse charge applies, the non-established business is not required to register for Spanish VAT. The reverse charge does not apply to supplies to private persons or to supplies to non-taxable legal persons.

The reverse charge mechanism does not apply to services (other than those listed below) when supplied between two nonestablished entrepreneurs. However, with regards to the following services, with effect from January 2002, the reverse charge applies if the recipient provides the supplier with a VAT number assigned by the Spanish VAT authorities.

- Intermediary services rendered on behalf and on account of a third person;
- Services related to reports made by experts, appraisals and work carried out on movable property;
- Intra-Community transportation of goods;
- Ancillary services to intra-Community transportation of goods;
- Intermediary services to intra-Community transportation of goods; and
- Intermediary services to ancillary services to intra-Community transportation of goods.

A non-established business must, therefore, register for Spanish VAT if it makes any of the following supplies:

- Intra-Community supplies or acquisitions;
- Distance Sales in excess of the threshold;
- Supplies of goods and services that are not subject to the reverse charge; or
- Imports.

Tax Representatives

Whether they are established in the European Union or not, no foreign businesses are required to appoint a tax representative in order to register for VAT in Spain, although, theoretically, EU

businesses and non EU business belonging to countries that have concluded mutual assistance treaties with Spain are not required to do so.

Penalties

As of July 2004, a penalty of €400 may be assessed for late registration. The penalty may be reduced to €200 if the taxpayer registers voluntarily, without a request by the Spanish tax authorities.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax, and that do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit.” This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods, intra-Community supplies of goods and related services, and supplies of certain goods and services outside the Spanish VAT territory that would give rise right to deduction if they were supplied in Spain.

Three rates of VAT currently apply in mainland Spain – the standard rate (16%) and two reduced rates (7% and 4%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate, or exemption.

Examples of Exempt Supplies of Goods and Services

Immovable property (in certain cases)
 Medical services
 Finance
 Public postal services

Examples of Goods and Services Taxable at 4%

Basic foodstuffs
 Books, journals and magazines
 Pharmaceutical products for humans
 Certain goods and services for handicapped persons

Examples of Goods and Services Taxable at 7%

Food and drink for human or animal consumption
 Pharmaceutical products for animals
 Prescription glasses and contact lenses
 Medical equipment
 Residential dwellings
 Ornamental flowers, and plants
 Passengers transport
 Hotel and restaurant services
 Artistic and cultural services
 Garbage collection
 Medical services (that do not qualify for exemption)
 Trade fairs and exhibitions

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point”. The basic time of supply for goods is when the goods are placed at the disposal of the purchaser. The basic time of supply for services is when the service is performed. If a service is ancillary to a supply of goods, the time of supply is when the goods are placed at the disposal of the purchaser. A VAT invoice must generally be issued at the time of supply.

Prepayments

For prepayments, or advance payments, the tax point is the date on which the advance payment is received.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is when the goods are placed at the disposal of the purchaser. The general rule for prepayments does not apply to intra-Community acquisitions (that is, a pre-payment does not modify the tax point).

Imported Goods

The time of the supply for imported goods is the date of importation (according to the customs documents), or when the goods leave a duty suspension regime.

Reverse Charge

The basic time of supply rules apply to reverse charge services supplied or received by a Spanish taxable person, that is, the time of supply is the date on which the service is performed, or the date of payment if earlier.

F. Recovery of VAT by Spanish Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made. Input tax may be deducted in the accounting period in which the output VAT was charged or in any successive period, up to a period of four years from the time of supply.

Input tax includes VAT charged on goods and services supplied within Spain, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services.

A valid tax invoice or customs document must always accompany a claim for input tax.

Non-Deductible 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.

As a general rule, input VAT may only be reclaimed on expenses connected with travel, restaurant and hotel expenses if the Spanish Corporate Income Tax law allows a deduction.

Otherwise, the input tax on this type of expenditure is not deductible.

The following table sets out 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. This list is not exhaustive.

Examples of Items for which Input Tax is Non-Deductible

Business entertainment
 Business gifts (unless of very low value)
 Alcohol and tobacco
 Private expenditure

Examples of Items for which Input Tax is Deductible (if related to a taxable business use)

50% Purchase, hire, lease, maintenance and fuel for cars, vans and trucks
 Attending conferences, seminars and training courses
 Advertising
 Business use of home telephone or mobile phone
 50% Parking
 Taxis, restaurant meals, hotel accommodation and travel expenses if the expense is allowable under the Spanish Income Tax or Corporate Tax law

Partial Exemption

Input tax directly related to the making of exempt supplies is not generally recoverable. If a Spanish taxable person makes both exempt and taxable supplies it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes. The pro rata rule also applies to Spanish businesses that receive state subsidies for financing entrepreneurial or professional activity. This rule applies even if the business exclusively makes taxable supplies and would not otherwise restrict its recovery of input tax.

In Spain, the amount of input tax that a partially exempt business may recover is calculated in one of two ways outlined below – a general pro rata calculation and a direct allocation calculation. The general pro-rata calculation is generally used, unless the taxable person elects to use the direct allocation method. However, the direct allocation method must be used if the general pro rata gives a VAT recovery amount that exceeds by 20% (or more) the amount of input tax recoverable using the direct allocation method.

The General Pro Rata Rule

The general pro-rata is based on the ratio of taxable turnover to total turnover during the calendar year, including state subsidies received. Since the taxable person does not know the annual ratio for the current calendar year when it makes its periodic VAT returns it provisionally uses pro rata percentage for the previous

year, or an agreed provisional percentage. The calculation is adjusted using the actual figures for the year in the last period of the VAT year.

The Special Pro rata – The Direct Allocation Method

The direct allocation method is a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The remaining input tax that is not allocated directly to exempt and taxable supplies is apportioned using the general pro rata calculation. The recovery percentage is rounded up to the nearest whole number (for example, a recovery of 16.3% is rounded up to 17%).

Deductions in different sectors of activity

If a taxable person undertakes activities in “different economic sectors”, it must apply different methods of partial exemption deduction for each sector, as if each economic activity were carried out by an independent business. This rule applies if the business undertakes activities that are subject to different partial exemption recovery regimes. This condition is satisfied if:

- The activities fall under different groups according to the national classification of economic activities; or
- The VAT recovery pro rata percentage for one economic sector of the business is more than 50 percentage points different (either higher or lower) than that of another sector of the business.

If goods or services are used in one of the distinct economic sectors, the VAT paid is recovered according to the pro rata recovery percentage for that sector. However, if goods or services are used by more than one economic sector, the amount of VAT recovered must be based on a pro rata percentage calculated for general expenditure.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage differs by 10 points during the adjustment period or if the goods are transferred or sold during the adjustment period.

In Spain, the capital goods adjustment applies to the following assets for the number of years indicated:

- Immovable property (adjusted for a period of 10 years); and
- Movable property (adjusted for a period of five years).

The capital goods adjustment does not apply to goods with a purchase of value of less than €3,005.

The adjustment is applied each year following the year of acquisition, to a fraction of the total input tax ($\frac{1}{10}$ for immovable property and $\frac{1}{5}$ for other movable capital goods). The adjustment may

result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input VAT recoverable exceeds the amount of output VAT payable, a refund may be claimed in the final periodic VAT return of the year. A business may choose to request a refund of the excess VAT or to carry it forward to offset output VAT the following four years.

G. Recovery of VAT by Non-Established Businesses

Spain refunds VAT incurred by businesses that are not established in Spain. A non-established business is permitted to claim Spanish VAT to the same extent as a VAT registered business.

For businesses established in the European Union, refund is made under the terms of the EC 8th Directive; for businesses established outside the European Union, refund is made under the terms of the EC 13th Directive on the condition of "reciprocity". Spanish VAT is refunded only to non-EU claimants established in Switzerland, Monaco, Canada, Japan, and Norway. A non-EU claimant must appoint a VAT representative in Spain.

For the general VAT refund rules of the 8th and 13th Directive refund schemes see the chapter on the European Union.

Refund Application

The deadline for refund claims is 30 June of the year following the calendar year in which the tax was incurred.

The claim forms must be completed in Spanish, Basque, Catalan or Gallego. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is €200. For an annual claim the minimum amount is €25.

Applications for refunds of Spanish VAT may be sent to:

Delegacion Especial de Madrid de la
Agencia Estatal de Administracion Tributaria
Dependencia Regional de Gestion
Seccion de Regimenes Especiales
C/ General Asensio Cabanillas, nº 3
28003 Madrid
Spain

Repayment Interest

The Spanish VAT authorities have committed to make refunds within six months of the date that the claim is submitted for refund. Interest is paid on late refunds. In practice, the handling period for claims generally exceeds one year.

H. Invoicing

VAT Invoices and Credit Notes

A Spanish taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies. Invoices are not automatically required for certain retail transactions if the taxable amount does not exceed €3000 (tickets are issued instead), unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A credit note (that is, a “factura rectificativa”) must be cross-referenced to the original invoice, contain the same information, and indicate the reason for the adjustment or correction and the result of the correction. A credit note must also contain suitable language to distinguish it from an invoice.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that the goods have left Spain. Acceptable proof includes the following documentation:

- For an export, stamped customs documentation and an indication on the invoice of the article of the Spanish VAT law that permits exemption with credit for the supply;
- For an intra-Community supply, the supplier must retain a copy of the invoice indicating the customer’s valid VAT identification number (issued by another EU Member State), together with a range of commercial documentation (such as, bills of lading, transport documentation and proof of payment).

Self Invoices

A self-invoice must be issued in the following cases:

- If a Spanish taxable person is required to account for VAT under the reverse charge for goods or services received; or

As of January 2004, it is no longer necessary to issue self-invoices for Intra Community acquisitions.

The self-invoice must contain the same information as for domestic supplies, together with additional information required and the Spanish taxable person must self-assess for VAT. The self-invoice must be kept with the invoice issued by the non-established supplier. The transaction must be recorded in both the sales and purchase ledgers.

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, the values for VAT purposes and the VAT amounts must be converted to Euros (€). The exchange rate used must be the official selling rate published by the Bank of Spain for the date when the tax becomes chargeable. The VAT amount must be expressed in Euros.

I. VAT Returns and Payment

VAT Returns

Periodic VAT returns are submitted in Spain for monthly or quarterly periods, depending on the taxable person's turnover and activities. All taxable persons also complete an annual summary of transactions.

Most taxable persons file VAT returns calendar quarterly.

Taxable persons whose turnover in the previous year exceeded €6,010,121 must file monthly returns. Exporters and other taxable persons whose turnover from exempt with credit transactions in the preceding or the current year exceeded €120,202 file monthly.

Periodic VAT returns must be filed together with full payment. Return liabilities must be paid in Euros.

Quarterly VAT returns must be submitted and the tax paid by the 20th day of the month following the end of the quarter, for the first three calendar quarters and by 30 January of the following year for the last calendar quarter.

Monthly VAT returns must be filed and the tax paid by the 20th day of the month following the month when the tax point arises. The VAT return for the month of July, however, may be filed using the same deadline as the month of August (that is, 20 September). The final (December) VAT return for the calendar year must be filed by 30 January.

Businesses whose turnover exceeds €6,010,121 a year must submit their monthly returns electronically.

In Spain, a separate summary of the taxable transactions carried out in the preceding year must be submitted annually. This summary must be filed by 30 January of the year following the VAT year, together with the VAT return for the final VAT period (month or quarter) of the year.

Penalties

The following penalties apply to the late submission VAT returns or late payment of VAT:

- If the delay is up to three months – 5% of the tax due;
- If the delay is between three months and six months – 10% of the tax due;
- If the delay is between six months and twelve months – 15% of the tax due; and
- If the delays is longer than twelve months – 20% of the tax due plus interest.

J. EU Declarations

INTRASTAT

A Spanish taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of 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 calendar year 2005 is €120,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is €120,000.

The INTRASTAT return period is monthly. The submission deadline is the 12th day following the return period.

The penalty for late or incorrect filing amounts to €1 for every €1,000 value of goods, with a minimum penalty of €100 and a maximum penalty of €6,000.

EC Sales Lists

If a Spanish taxable person makes intra-Community supplies or intra-Community acquisitions in any return period, it must submit an EC Sales List (ESL). An ESL is not required for any period in which the taxable person has not made any intra-Community supplies.

ESLs are generally submitted quarterly. However, taxable person's whose turnover does not exceed €35,000 may file annually under certain conditions.

ESLs must be submitted by the 20th day of the month following the end of the quarter (for the first three calendar quarters) and by 30 January for the last calendar quarter.

Penalties may be imposed for late, missing and inaccurate ESLs.

The penalty for late submission may amount to €200 which is reduced to €100 if the ESL is filed voluntarily without a request from the Tax Authorities. However, if the return is filed incorrectly, the general penalty may amount to €150.

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Mervärdesskatt (Moms) |
| Date Introduced | 1 January 1969 |
| European Union (EU) Member State | Yes |
| Administered by | The Ministry of Finance http://www.finans.regeringen.se |
| VAT Rates | |
| Standard | 25% |
| Reduced | 6% and 12% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | SE 5 5 6 1 2 3 1 2 3 4 0 1 |
| VAT Return Periods | Monthly (if turnover exceeds SEK 1 million) Yearly (if turnover below SEK 1 million) |
| Thresholds | |
| Registration | None |
| Distance Selling | SEK 320,000 |
| Intra-Community Acquisitions (for ex- empt taxable persons) | SEK 90,000 |
| Recovery of VAT by Non- Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Sweden by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person;
- Reverse charge services received by a taxable person in Sweden; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales in the course of a business in Sweden.

No VAT registration threshold applies in Sweden. A taxable person that commences activity must notify the VAT authorities of its liability to register.

Special rules apply to foreign or “non-established” businesses.

Group Registration

Companies in the financial sector as well as companies in “an agency relationship” for income tax purposes may form a VAT group. If a VAT group is formed, the group becomes liable for tax if it engages in business that implies tax liability.

Only entities with a fixed establishment in Sweden may be part of a Swedish fiscal group. A VAT group must consist only of taxable persons that are closely connected to each other “financially, economically and organizationally.” All three criteria must be fulfilled, as outlined below:

- A “financial link” is deemed to exist between two companies if one company holds more than 50% of the votes in the other;
- An “economic link” is satisfied if the companies exchange a certain amount of goods and services; and
- The “organizational link” is satisfied if the group members have some joint administrative functions, for example joint management or joint marketing.

Non-Established Businesses

A non-established business that makes supplies of goods or services in Sweden must register for VAT if it is liable to account for Swedish VAT on the supply, or if it makes intra-Community supplies or acquisitions of goods.

With effect from 1 July 2002, the “reverse charge” generally applies to supplies made by non-established businesses to taxable persons established in Sweden. Under this provision, the taxable person that receives the supply must account for the Swedish VAT due. If the reverse charge applies, the non-established business is not required to register for Swedish VAT. The reverse charge does not apply to the transport of persons, to cultural services and to supplies made to private persons or to non-taxable legal persons.

A non-established business must, therefore, register for Swedish VAT if it makes any of the following supplies:

- Intra-Community supplies or acquisitions (see the chapter on the European Union);
- Distance sales in excess of the threshold (see the chapter on the European Union); or
- Supplies of goods and services that are not subject to the reverse charge.

Businesses that are established in the European Union are not required to appoint a tax representative in order to register for VAT in Sweden. However, EU businesses may opt to appoint a tax representative if they choose to do so. This provision also

applies to businesses established in any non-EU country that has mutual assistance provisions with the European Union or with Sweden directly.

Businesses that are established outside the European Union must generally appoint a resident tax representative to register for Swedish VAT. The tax representative is not jointly liable for VAT debts with the business that it represents.

Late Registration Penalties

No specific penalty is assessed for late registration. However, interest is charged on any VAT paid late as a result of the late registration.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax that do not give rise to a right of input tax deduction (see Section *F Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services, as well as supplies of intangible services made either to another taxable person established in the European Union or to any recipient outside the European Union (see the chapter of the European Union).

Three rates of VAT currently apply in Sweden – the standard rate (25%), and two reduced rates (12% and 6%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 6% | Examples of Goods and Services Taxable at 12% |
|--|---|--|
| Immovable property | Books and newspapers | Foodstuffs |
| Medical services | Copyright and artistic rights | Hotel accommodation |
| Finance | Cultural services | |
| Insurance | Passenger transport | |
| Pharmaceutical supplies | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply for goods is when the goods are delivered. The basic time of supply for services is when the service is completed. If the consideration is paid in full or in part before the invoice is issued, the actual tax point becomes the date on which payment is received (but the tax point only applies for the amount paid).

Prepayments

For prepayments or advance payments, the tax point is the date on which the advance payment is received.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month when the acquisition occurred. If the supplier issues an invoice prior to this date, the time of supply is when the invoice is issued.

Imported Goods

The time of supply for imported goods is 10 days after a decision is submitted from the customs authorities on the liability to pay import VAT.

Reverse Charge

The time of supply for goods or services subject to the reverse charge is the earlier of the date of delivery or the date when payment is received.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Sweden, VAT paid on imports of goods and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase of cars
Business entertainment
(in excess of the allowable
expense limits)
Private expenditure

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, lease, maintenance
and fuel for vans and trucks
Maintenance and fuel for cars
50% lease of a car used for
business (3,000 km a year)
Conferences, seminars and
training courses
Advertising
Business use of a mobile phone

Examples of Items for which Input Tax Is Non-Deductible**Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)**

Hotel accommodation
(excluding restaurant expenses)

Restaurant expenses and
business entertainment (up to
monetary limits set by the
Swedish VAT authorities)

Business gifts (valued at less
than SEK 225 inclusive of VAT)

Partial Exemption

Input tax directly related to making exempt supplies is not generally recoverable. If a Swedish taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as partial exemption. Exempt with credit supplies are treated as “taxable supplies” for these purposes.

In Sweden, the amount of input tax that a partially exempt business may recover is generally calculated in two stages:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to exempt supplies is not deductible.
- The remaining input tax that is not allocated directly to exempt and taxable supplies is then apportioned based on the value of taxable supplies compared with total turnover, or by using another acceptable method agreed with the VAT authorities. The recovery percentage is rounded up to the nearest whole number.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage changes in any year during the adjustment period or if goods are taken from a taxable sector or activity for use in an exempt sector or activity.

In Sweden, the capital goods adjustment applies to the following assets for the number of years indicated:

- Immovable property acquired prior to 1 January 2001 that cost more than SEK 200,000 – adjusted for a period of six years;
- Immovable property acquired after 1 January 2001 that cost more than SEK 400,000 – adjusted for a period of 10 years; and
- Machinery and equipment that cost more than SEK 200,000 – adjusted for a period of five years.

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax ($\frac{1}{6}$ or $\frac{1}{10}$ for immovable property and $\frac{1}{5}$ for machinery and equipment). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by

the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the taxable person has an input tax credit. A refund of the credit is triggered automatically by the submission of the VAT return.

G. Recovery of VAT by Non-Established Businesses

Sweden refunds VAT incurred by businesses that are neither established nor registered for VAT in Sweden. A non-established business is permitted to claim Swedish VAT to the same extent as a VAT-registered business.

For businesses established in the European Union, a refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, a refund is made under the terms of the EU 13th Directive. Sweden does not exclude claimants from any non-EU country.

For the general VAT refund rules of the 8th and 13th Directives, see the chapter on the European Union.

The deadline for refund claims is 30 June of the year following the calendar year in which the tax was incurred.

Claims may be submitted in Swedish, English, French or German. The application for refund must be accompanied by the appropriate documentation (see the chapter on the European Union).

The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is SEK 2,000. For an annual claim the minimum amount is SEK 250.

Applications for refunds of Swedish VAT may be sent to the following office:

Skattemyndigheten
Särskilda skattekontoret
S-771 83 Ludvika
Sweden

Repayment Interest

The average handling period in Sweden for refund claims under the EU 8th and 13th Directives is two to four months. However, interest is not paid on late repayments.

H. Invoicing

VAT Invoices and Credit Notes

With effect from 1 January 2004 new EU rules for invoicing for VAT were introduced. These rules have been implemented into the Swedish VAT Act. A Swedish business must generally provide a VAT invoice for all supplies made to other businesses or legal persons. Invoices are not required for retail transactions to private persons.

A VAT invoice, containing the required information according to the VAT Act, is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive (see the chapter on the European Union).

Credit notes may be issued to correct genuine errors or overcharges following the cancellation of a supply, to give effect to a bonus or discount, or as a result of the renegotiation of consideration for a supply. A credit note must show an unambiguous reference to the original invoice, the payment and VAT in the original invoice and the reduction in value and VAT on the supply.

Proof of Exports and Intra-Community Supplies

VAT is not chargeable on supplies of exported goods or on the intra-Community supply of goods (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence confirming that the goods have left Sweden. Acceptable proof includes the following documentation:

- For an export, the stamped customs documentation and commercial documentation (such as bill of lading, copy invoice, delivery note, proof of payment); and
- For an intra-Community supply, a copy of the invoice indicating the customer's valid VAT identification number (issued by another EU Member State), plus a range of commercial documentation (such as bill of lading, transport documentation, proof of payment and proof of receipt).

Foreign Currency Invoices

Swedish taxable persons may keep their accounts in either Euros (€) or Swedish kroner (SEK). If a VAT invoice is issued in a currency other than the currency used for accounting, the values for VAT purposes and the VAT amounts must be converted to Euros or Swedish kroner. The exchange rate used must be shown on the invoice.

I. VAT Returns and Payment

VAT Returns

Periodic VAT returns are submitted in Sweden for monthly or yearly periods, depending on the taxable person's turnover.

VAT liabilities are reported on the same tax return form as payroll taxes and employee income tax amounts withheld by employers. For taxable persons that report these other taxes, the due date for VAT is effectively the 12th day of the second month following the return period.

Monthly VAT returns must be filed if the taxable person's turnover exceeds SEK 1 million.

VAT returns must be filed together with full payment. Monthly VAT returns generally must be submitted by the 12th day of the second month after the end of the return period. Taxable persons whose turnover exceeds SEK 40 million must file monthly returns by the 26th day of the month following the return period.

Returns must be completed and return liabilities must be paid in Swedish kroner.

Penalties

A penalty of SEK 500 is imposed for late filing of a VAT return. If one of the three previous VAT returns has been filed late, the penalty is SEK 1,000. Late payment of VAT results in a interest penalty. If the amount due exceeds SEK 10,000, the interest is base interest (2 % January 2005) plus 15 %.

J. EU Declarations**INTRASTAT**

A Swedish taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of 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 calendar year 2005 is SEK 2.2 million.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is SEK 4.5 million.

The INTRASTAT return period is monthly. The submission deadline is the 10th day following the return period.

INTRASTAT reports must be filed in Swedish kroner.

In principle, penalties may be charged for late filing of INTRASTAT reports, or for errors or omissions. However, penalties are rarely imposed. If a penalty is assessed, the courts take a number of factors into consideration (such as the size of the business and its turnover) in determining the amount owed.

EU Sales Lists

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

ESLs are submitted quarterly. The due date is the 5th day of the month following the end of the ESL return period.

ESL reports must be filed using amounts expressed in Swedish kroner.

Penalties are not imposed for late, missing and inaccurate ESLs.

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A. At a Glance

| | |
|-------------------------------------|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Names | Mehrwertsteuer (MWST) Taxe sur la Valeur Ajoutée (TVA) Imposta sul Valore Aggiunto (IVA) |
| Date Introduced | 1 January 1995 |
| European Union (EU) Member State | No |
| Administered by | The Federal Tax Administration http://www.estv.admin.ch/data/mwst |
| VAT Rates | |
| Standard | 7.6% |
| Reduced and special | 2.4% and 3.6% |
| Other | Zero Rate and Exempt |
| VAT Number Format | 123'456 |

| | |
|---|--|
| VAT Return Periods | Quarterly Half-yearly (optional if the taxable person has applied for the “balance tax rate” method) Monthly (optional if annual net VAT receivable exceeds CHF 250,000) |
| Thresholds | |
| Registration | CHF 75,000 CHF 250,000 (if annual net VAT payable does not exceed CHF 4,000) |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Switzerland by a taxable person;
- Reverse charge services received by any person in Switzerland who imports services for more than CHF 10,000 a year (that is, services for which the recipient is liable for the VAT due); and
- The importation of goods from outside Switzerland and Liechtenstein, irrespective of the status of the importer.

Liechtenstein is considered to be domestic territory for Swiss VAT purposes. Likewise, Switzerland is considered to be part of the territory of Liechtenstein for the purposes of VAT in Liechtenstein.

C. Who Is Liable

A “taxable person” is any business entity or individual that makes taxable supplies of goods or services in the course of a business in Switzerland.

In general, the VAT registration threshold in Switzerland is annual turnover of CHF 75,000. The threshold increases to CHF 250,000 for taxable persons whose payable annual net VAT does not exceed CHF 4,000.

Group Registration

VAT grouping is permitted under the Swiss VAT law for entities with “close” financial, economic and administrative relationships. Any Swiss resident entities that are under “joint control” may form a VAT group. The group may include Swiss branches of foreign entities, to the extent that the foreign entity is under the same “joint control” as the other VAT group members. Although Liechtenstein is considered to be domestic territory for Swiss VAT purposes (and vice-versa), it is not possible to form a VAT group that includes both Swiss and Liechtenstein entities.

VAT group members are treated as a single taxable person, with a single VAT number. The effects of grouping are:

- The VAT group submits a single, consolidated VAT return for all members;
- VAT is not chargeable on transactions between group members; and

- All VAT group members are jointly and severally liable for VAT liabilities.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Switzerland. A non-established business that makes supplies of goods or services in Switzerland must register for VAT if it is liable to account for Swiss VAT on the supply.

Tax Representatives

A non-established business (that is, a foreign domiciled business without a permanent establishment in Switzerland or Liechtenstein) must appoint a tax representative if it supplies goods or services subject to Swiss VAT in excess of the annual turnover threshold.

The Reverse Charge

The “reverse charge” is a form of self-assessment for VAT, whereby the recipient of a supply services accounts for the tax. The reverse charge mechanism applies to a range of services listed in the Swiss VAT law if a Swiss recipient receives them from a supplier domiciled abroad that is not registered for Swiss VAT and if the value of the services exceeds CHF 10,000 per calendar year. Services subject to the reverse charge include the following:

- The transfer and assignment of intangible assets and similar rights;
- Advertising services;
- The services of consultants, assets managers, trustees, debt-collection agencies, engineers, research officers, lawyers, notaries, auditors, interpreters and translators, management services and other similar services;
- Data processing, the transfer of information and similar services;
- Telecommunications services;
- The full (or partial) refusal to carry out a business or professional activity or to make use of a right listed in this paragraph;
- The supply of staff; and
- Banking, finance and insurance, including re-insurance, turnover, with the exception of renting out safes.

The reverse charge mechanism also applies to a limited number of other services received from suppliers domiciled abroad if the services are “used and enjoyed” in either Switzerland or Liechtenstein. This rule applies, for example, to aircraft management services and to intermediary services relating to domestic taxable supplies.

Late Registration Penalties

A penalty may be levied for late VAT registration. In the case of tax evasion, fines of up five times the tax evaded may be charged.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a VAT rate. The term “tax-exempt without credit supplies” is used for supplies of goods and services that are not liable to tax. Tax-exempt without credit supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as tax-

exempt with credit (“zero rated”), which means that no VAT is chargeable, but the supplier may recover related input tax. Tax-exempt with credit supplies include exports of goods and related services.

In Switzerland, three VAT rates currently apply – the standard rate at 7.6%, the reduced rate at 2.4% and a special rate of 3.6% for hotel accommodation. The standard VAT rate applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of tax-exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced VAT rates. This list is not exhaustive.

Examples of Tax-Exempt without Credit Supplies of Goods and Services

Immovable property (unless opted for taxation)
Financial transactions
Insurance
Education

Examples of Goods and Services Tax-Exempt with Credit

Exports of goods and services related to exports
International air transport
Services supplied abroad

Examples of Goods and Services Taxable at 2.4%

Books, newspapers and magazines
Food and drink (except provided by hotels and restaurants)
Drugs
Water

Examples of Goods and Services Taxable at 3.6%

Hotel accommodation, including breakfast

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Switzerland, taxable turnover must be declared in the VAT quarter (or VAT month, if monthly declarations are filed) when the sales invoice for a supply is issued. Sales invoices must be issued within three months after the goods or services have been provided. If the declaration is made on a cash basis, the turnover must be declared in the quarter when payment is collected.

Prepayments

The tax point for a prepayment is when the supplier receives the consideration or when the invoice is issued, whichever is earlier.

Reverse Charge

The tax point for reverse charge services is when the services are received by the customer.

Imported Goods

The time of supply for imported goods is the official date of importation.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax that is VAT on purchases, to the extent that purchases of goods and services are related to taxable supplies, including tax-exempt with credit supplies and supplies rendered outside Switzerland or Liechtenstein that would be taxable if rendered domestically. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Switzerland and Liechtenstein, VAT paid on imports of goods and VAT self-assessed on reverse charge services.

A valid tax invoice or customs document must support a claim for input tax.

Non-Deductible Input Tax

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

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Private expenditure
Business and staff entertainment (with some exceptions)
50% VAT on restaurant meals for business purposes

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire, lease, maintenance and fuel for cars, vans and trucks (output tax is due on private use of company cars)
Parking
Conferences, seminars and training courses
Books
Business use of home telephone (output tax is due on the private element)
Advertising
Transport
Hotel accommodation
Business gifts (subject to restrictions and output tax may be due)

Partial Exemption

Input tax directly related to making tax-exempt without credit supplies is generally not recoverable. If a Swiss taxable person makes both tax-exempt without credit and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.”

In Switzerland, the amount of input tax that a partially exempt business may recover may be calculated using a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to tax-exempt without credit supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly related to tax-exempt without credit supplies is not deductible. Tax-exempt with credit supplies are treated as “taxable supplies” for these purposes.
- The next stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered. The calculation may be performed using a general pro rata calculation based on values of taxable and tax-exempt without credit supplies made, or it may be based on another appropriate method agreed with the VAT authorities.

Refunds

If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period, the taxable person is entitled to a refund of the excess amount. A VAT repayment is paid automatically within 60 days after the return is filed with the Swiss VAT authorities.

G. Recovery of VAT by Non-Established Businesses

Switzerland refunds VAT incurred by businesses that are neither established nor registered for VAT in Switzerland or Liechtenstein. A non-established business is generally allowed to claim Swiss VAT to the same extent as a VAT-registered business. However, restrictions do apply to certain types of expenditure for claimants established in some countries.

Refunds are made on the condition of reciprocity. Repayments are currently made to claimants from the following countries: Austria, Belgium, Bermuda, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Ireland, Israel, Italy, Japan, Lithuania, Luxembourg, Macedonia, Monaco, the Netherlands, Norway, Poland, Portugal, Saudi Arabia, Slovak Republic, Slovenia, Spain, Sweden, the United Kingdom and the United States.

Refund Application

The deadline for refund claims is 30 June following the calendar year in which the rendered supply was invoiced. This deadline is strictly enforced.

Claims may be submitted in German, French or Italian. The claimant must appoint a representative who is a natural person or a legal entity whose domicile or registered office is in Switzerland.

The claim period is one year. The minimum claim amount is CHF 500.

The following documentation must accompany the claim:

- Forms 1221 to 1225 (available for download from the Swiss VAT authorities website);
- The original VAT invoices;

- A written power of attorney appointing the Swiss tax representative (form 1222);
- Proof of payment (or form No. 1225, which must be completed and signed by the supplier);
- A Certificate of Taxable Status for the claimant, issued by the competent tax authorities in the country where the claimant is established, to prove the business status of the claimant (form No. 1221). The certificate is valid for a period of 12 months; and
- A statement by the applicant confirming that in the period covered by the refund application, it did not supply goods or render services on Swiss territory.

Applications for refunds of Swiss VAT may be sent to the following address:

Eidgenoessische Steuerverwaltung
Hauptabteilung Mehrwertsteuer
Schwarztorstrasse 50
CH-3003 Berne
Switzerland

Repayment Interest

Refunds are generally made within six months from the date of application. However, the Swiss VAT authorities do not pay interest on refunds made outside this period.

H. Invoicing

VAT Invoices and Credit Notes

A Swiss taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is necessary to support a claim for input tax deduction or a refund under the VAT refund scheme for non-established businesses.

A VAT credit note may be used to reduce VAT charged and reclaimed on a supply of goods or services. The amount of VAT credited must be separately itemized on the credit note. It must be cross-referenced to the original VAT invoice.

Proof of Exports

Swiss VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence that the goods have left Switzerland. Acceptable proof includes the officially validated customs documentation.

Foreign Currency Invoices

If a Swiss VAT invoice is issued in a currency other than Swiss francs (CHF), the amounts must be converted to Swiss francs, using the appropriate exchange rates published by the Federal Tax Administration, which are available on its website (monthly or daily rates are available).

I. VAT Returns and Payment

VAT Returns

Swiss VAT returns are usually submitted for quarterly periods. If the taxable person has applied to use the balance tax rate method,

VAT returns must be submitted on a half-yearly basis. Taxable persons with a net VAT receivable of CHF 250,000 a year may apply to submit monthly returns. The VAT return is due, together with full payment, 60 days after the end of the VAT quarter.

Return liabilities must be paid in Swiss francs.

Penalties

Interest at a rate of 5% a year may be assessed for the late payment of VAT. Penalties of between CHF 300 and CHF 500 may be assessed for the late submission of a VAT return. For the repeated late submission of returns, penalties of up to CHF 5,000 may be assessed.

TRINIDAD AND TOBAGO

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A. At a Glance

| | |
|-------------------------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | 1 January 1990 |
| European Union (EU) Member State | No |
| Administered by | The Board of Inland Revenue Value Added Tax Administration Centre 20, St. Vincent Street Port-of-Spain Trinidad |
| VAT Rates | |
| Standard | 15% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 999999 (6 digits) |
| VAT Return Periods | Two-Monthly |
| Thresholds | |
| Registration | TT\$200,000 |

| | |
|---|----|
| Recovery of VAT by Non-Established Businesses | No |
|---|----|

B. Scope of the Tax

VAT applies to commercial transactions undertaken by taxable persons in Trinidad and Tobago and to imports of goods.

C. Who Is Liable

The Trinidad & Tobago VAT law imposes a registration requirement on any person who makes commercial supplies in Trinidad & Tobago, whose annual turnover is TT\$200,000 a year or more.

A person that intends to make commercial supplies may apply for registration. However, the application must be supported by additional information that indicates that the value of the person's commercial supplies will exceed TT\$200,000 a year. Suitable evidence includes incorporation documents, cash flow projections for 12 months (the month and year to be included) signed and dated by a director or the company's accountant, and contracts showing evidence of commencement of business.

Group Registration

VAT grouping is not allowed under the Trinidad & Tobago VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses and Tax Representatives

A "non-established business" is a business that has no fixed establishment in the territory of Trinidad and Tobago. A non-established business that makes commercial supplies in Trinidad & Tobago must register for VAT if it meets the registration requirements. A branch of a foreign corporation is registered in the same way as a resident taxable person.

A foreign individual or company who needs to register for VAT may need to appoint an agent as his representative in matters relating to compliance under the VAT Act.

Reverse Charge

No "reverse charge" mechanism applies in Trinidad and Tobago.

Late Registration Penalties

Summary conviction and penalties and interest are imposed for late registration for VAT and for other offenses (see Section I *VAT Returns and Payment*).

D. VAT Rates

The term "taxable supplies" refers to a supply of goods and prescribed services that are made in the course or furtherance of any business that is liable to VAT. Taxable supplies are referred to as "commercial supplies." Taxable supplies include supplies at the zero rate. The VAT law determines what constitutes a supply of goods or services (in Schedule 3). The term "prescribed services" means any services not listed as exempt services in the VAT law (in Schedule 1). The term "exempt supplies" is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Trinidad and Tobago, two rates of VAT currently apply – the standard rate at 15% and the zero rate (0%). The 15% standard rate applies to all supplies of goods or services, unless a specific provision imposes allows the zero rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the zero rate. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 0% |
|--|---|
| Financial Services | Exported goods |
| Medical services | Medicines |
| Residential property rentals | Water and sewerage services |
| Real estate brokerage | Certain Staple Foods |
| Public postal services | |
| Prescribed bus and taxi services | |
| Betting and gaming | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” Generally, the tax point for goods and services supplied by a taxable person is the earliest of the following events:

- The date of issue of the invoice by the supplier;
- The date that payment is received for the supply; and
- The date that the goods are made available to the recipient or the services are performed.

A taxable person must account for VAT in the VAT period when the tax point occurs, whether or not payment is received. Once registered for VAT, the purchaser is entitled to recover the VAT applicable on the tax invoice.

F. Recovery of VAT by Taxable Persons

The tax paid on goods and services, acquired for the purposes of making taxable supplies, is deductible as input tax. Input tax is offset against output tax, which is tax on supplies made. Input tax is deductible at the time the goods and services are acquired.

Goods or services are deemed to be for the purpose of making commercial supplies if the supplier acquired, imported or produced the goods or services for any of the following purposes:

- Their supply or re-supply as a taxable supply;
- Their consumption or use (whether directly or indirectly, or wholly or partly) in producing goods or services for supply as a taxable supply; and
- Their consumption or use (whether directly or indirectly, or wholly or partly) in connection with a commercial enterprise.

Non-Deductible 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).

Partial Recovery

The Trinidad & Tobago VAT legislation states that if all the supplies made by a taxable person during a tax period are commercial supplies, the input tax incurred in the period is deductible in full. However, if some, but not all, of the supplies made by the person during the tax period are commercial supplies, a partial recovery calculation is required. The allowable input tax is calculated as follows:

- All of the input tax for the period that is directly related to the making of commercial supplies, (whether or not the supplies are made during that tax period) is recoverable;
- None of the input tax for the period that is directly related to supplies that are not commercial supplies (whether or not the supplies are made during that tax period) is recoverable; and
- A proportion of the input tax for the period that relates both to commercial and not commercial supplies is recoverable. The recoverable portion is calculated based on the value of commercial supplies made during the period compared with the value of total supplies made during the period;

If a taxable person makes no commercial supplies during the tax period, the recoverable input tax is the proportion, if any, of the input tax for the period that the tax authorities consider to be “fair and reasonable.”

Refunds

If the amount of input VAT recoverable in a month exceeds the amount of output VAT payable, the excess may be refunded. The refund claim should be submitted within 25 days of the end of the tax period. If this deadline is met, and the refund is unpaid after 6 months, the tax authorities pay interest on the outstanding balance, at the rate of 1% per month or part of a month, chargeable from the day after the expiration of the period until the outstanding amount is satisfied.

G. Recovery of VAT by Non-Established Businesses

A foreign business that makes commercial supplies in Trinidad & Tobago is entitled to register and recover tax in relation to their local operations in the same way as a resident business. However, Trinidad and Tobago does not refund VAT paid by a foreign business that is not registered for VAT there.

H. Invoicing

Sales Invoices and Credit Notes

A taxable person must generally provide a VAT invoice for all taxable supplies made, including exports. A less detailed invoice may be used for supplies made to nontaxable persons. A VAT invoice is necessary to support a claim for input tax deduction.

A credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note will generally contain the same information as a VAT invoice.

Exports

Trinidad and Tobago VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by evidence that the goods have left Trinidad and Tobago.

Foreign Currency Invoices

If a supply is made to a person outside of Trinidad and Tobago, the invoice may be issued in a foreign currency. However, in accounting for the tax payable, the taxable person must account for the tax in Trinidad and Tobago dollars (TT\$). In converting the invoice, the rate of exchange used should be the rate at which the Central Bank of Trinidad and Tobago would have purchased that currency in the form of notes, at the time of the supply.

I. VAT Returns and Payment

VAT Returns

VAT reporting periods are generally two months. However, the tax authorities may assign longer or shorter tax periods if they consider it appropriate. Returns must be completed and filed by the 25th day of the month following the tax period.

Penalties

Penalties are assessed for errors and omissions connected with VAT accounting. Late submission of a VAT return renders the taxable person liable to a fine of TT\$500. In addition, a penalty of 8% applies for late filing and interest may be charged at the rate of 2% per month or part of a month.

In general, the basic penalty for the late payment of tax owed is 8% of the amount owed. In addition, a number of other penalties that may apply, including:

- Failure to notify the tax authorities of changes relating to the registration – TT\$3,000; and
- Failure to file a return by the due date – TT\$500.

Certain offenses may give rise to criminal penalties.

TURKEY

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A. At a Glance

| | |
|---------------------|----------------------------|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Katma Deger Vergisi Kanunu |
| Date Introduced | 2 November 1984 |
| European Union (EU) | |
| Member State | No |

| | |
|---|--|
| Administered by | Ministry of Finance http://www.maliye.gov.tr |
| VAT Rates | |
| Standard | 18% |
| Reduced | 1% and 8% |
| Other | Exempt and Exempt with Credit |
| VAT Number Format | 1234567890 |
| VAT Return Periods | Monthly |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Turkey by a taxable person in the course of performing commercial, industrial, agricultural and independent professional activities;
- Reverse charge services received in Turkey by a taxable person or any other person responsible for payment of the tax (that is services for which the recipient is liable for the VAT); and
- The importation of goods from outside Turkey.

C. Who Is Liable

A “taxable person” is any person or legal entity that is registered for VAT in Turkey. Any entity that has a fixed place of business or carries out commercial or professional operations on a regular basis in Turkey must register for VAT.

No VAT registration threshold applies. VAT registration is granted automatically by the tax office when a business registers for corporate and income tax purposes. It is necessary to have a fixed place of business to register for tax and VAT (a fixed place of business includes a residence, place of business, registered head office or business center in Turkey). Only entities that are registered for tax may import goods into Turkey.

Group Registration

VAT grouping is not permitted under Turkish VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the territory of Turkey. A non-established business may not register for VAT. If a Turkish taxable person receives services from an entity that has no fixed establishment in Turkey, VAT is accounted for using the “reverse charge” mechanism (that is, the Turkish recipient of the service must self assess VAT).

Reverse Charge

The reverse charge is a form of self-assessment for VAT, whereby the recipient of a supply of goods or services accounts for the tax.

The reverse charge applies if certain supplies that are subject to Turkish VAT are made by a person who is not resident in Turkey or who does not have a permanent establishment or headquarters in Turkey. The Ministry of Finance may direct that the recipient of a transaction subject to VAT is responsible for the payment of VAT. The recipient does not need to be a taxable person under Turkish VAT law, it may be an individual or institution.

The reverse charge applies to the any of following services if they are performed or are used in Turkey:

- Transfers of copyright, patents, licenses, trademarks, know-how and similar rights;
- Advertising services;
- Import commissions;
- Services of independent professionals, such as engineering, consulting, data processing and provision of information;
- Interest payments made to foreign entities other than banks and other institutions;
- Rental services;
- Transfer or assignment of the right to use capacity for the transmission, emission or reception of signals, writings, images, sounds or information of any nature by wire, radio, optical or other electromagnetic systems; and
- Any other services not specified in this list if supplied to a recipient that is registered for Turkish VAT.

The reverse charge does not apply to services supplied through a Turkish branch of a foreign entity. The branch must register for VAT and account for VAT according to the general procedure.

A special reverse charge also applies to supplies made by subcontractors in the textile business.

Penalties for Reverse Charge Supplies

Penalties apply to a number of VAT offenses, including failure to account for VAT under the reverse charge mechanism. The penalty is calculated at 100% of the tax that has not been accounted for, plus 50% of the amount of interest charged on delayed tax payments due for the period. The interest applies from the due date for the tax payment to the date when the penalty notice is issued.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are subject to a rate of VAT. The term “exempt supplies” is used for supplies of goods and services that are not subject to VAT. Exempt supplies (as specified in article 16 and 17 of the VAT Law) do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). Some supplies are classified as “exempt with credit,” which means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include exports of goods and related services.

In Turkey, three rates of VAT currently apply – the standard rate at 18%, and two reduced rates at 1% and 8%. The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at the reduced rates of VAT. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Leasing immovable property by an individual
 Financial transactions
 Supplies to certain cultural bodies
 Supplies by and to certain governmental bodies
 Water for agriculture

Examples of Exempt with Credit Supplies of Goods and Services

Exports of goods and services
 International air transport
 Supplies to persons engaged in petroleum exploration

Examples of Goods and Services Taxable at 1%

Newspapers and magazines
 Basic foodstuffs
 Used cars
 Financial leasing transactions

Examples of Goods and Services Taxable at 8%

Basic foodstuffs
 Books
 Admission charges to cinema, theater, opera and ballet performances

Excise Tax

With effect from 1 August 2002, an excise tax has been introduced to replace 16 different indirect taxes that previously applied. The excise tax applies to the import, manufacture and first acquisition of a range of goods. With the introduction of the excise tax, the higher rates of VAT at 37% and 84% that were formerly used have been reduced to the standard VAT rate of 18%.

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Turkey, the basic time of supply for goods is when they are delivered. The basic time of supply for services is when they are performed. However, if the supplier issues a VAT invoice before the basic tax point, a tax point is created when the invoice is issued (to the extent of the supply covered by the invoice).

Prepayments

A prepayment or deposit does not create a tax point.

Continuous Supplies of Services

If services are received continuously but payment is made periodically, a tax point is created each time payment is made or a VAT invoice is issued, whichever is earlier. No specific regulation applies for the VAT treatment of continuous services. However, it may be advisable to issue the invoice on a monthly basis to avoid any possible criticism from tax authorities.

Goods Sent on Approval

The tax point for goods sent on approval is when the customer accepts the goods and a supply is made.

Imported Goods

The time of supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Turkey, VAT paid on imports of goods and VAT self-assessed on reverse charge services.

A valid tax invoice or customs document must generally accompany a claim for input tax. The right of deduction may be exercised in the tax period when the purchase documents are entered into the recipient's books of account, but only during the calendar year in which the taxable event has taken place.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Private expenditure
Purchase of cars
Home telephone
Cost of goods that are lost, stolen or destroyed
Expenditure that is not allowable for income and corporate tax purposes

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Hire, lease, maintenance and fuel for cars
Purchase, hire, lease, maintenance and fuel for vans and trucks
Parking
Books
Attendance of conferences, seminars and training courses
Mobile phones
Business gifts
Advertising
Transport
Hotel accommodation
Taxis

Partial Exemption

Input tax deduction is granted for taxable supplies and for supplies that are exempt with credit. Input tax deduction is not granted for exempt supplies. If a taxable person makes both taxable and exempt supplies, it may recover only input tax related to supplies that are taxable or exempt with credit.

Refunds

If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period, a refund is not generally granted. In most cases, the taxable person must carry the excess forward to a future VAT period. Refunds of the excess are only available in the following situations:

- VAT related to supplies of basic foodstuffs that are subject to a reduced rate;
- VAT related to supplies of goods and services that are exempt with credit; or
- VAT related to exported goods.

The VAT refund amount may be credited against other tax liabilities.

G. Recovery of VAT by Non-Established Businesses

Turkey does not refund VAT incurred by businesses that are neither established nor registered for VAT in Turkey.

H. Invoicing

VAT Invoices and Credit Notes

A Turkish taxable person must provide a VAT invoice for all taxable supplies made to another taxable person, including exports. The recipient of the supply is obliged to retain a copy of the invoice. A VAT invoice is necessary to support a claim for an input tax deduction or a refund for non-established businesses.

Credit notes must not be used to reduce VAT charged and reclaimed on a supply of goods or services. Additional VAT invoices must be used for the correction of genuine mistakes.

Proof of Exports

Turkish VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, export supplies must be supported by evidence that confirms the goods have left Turkey. The evidence required is the customs declaration, which clearly identifies the exporter, the customer, the goods and the export destination and invoice information.

Foreign Currency Invoices

A VAT invoice issued for a domestic supply must be issued in New Turkish lira (New TL). The invoice may also show the invoiced amount in a foreign currency and the exchange rate at the date of the invoice.

A VAT invoice issued for an export sale may be issued in a foreign currency. The amount of the invoice must be recorded in the supplier's books together with the exchange rate on the day of the transaction.

I. VAT Returns and Payment

VAT Returns

Turkish VAT return periods are monthly. Returns must be filed by the 20th day of the month following the end of the return period. Payment in full must be made by the 26th day of the same month.

Return liabilities must be paid in New Turkish lira (New TL).

Penalties

No specific penalties relate to VAT offenses. Penalties are prescribed by the Tax Procedural Law, which defines various acts of noncompliance with the tax laws.

The penalty for tax evasion is calculated as 100% of the amount that has not been accounted for plus 50% “delay interest” (“delay interest” is currently charged at 4% of the tax per month). The interest is calculated beginning from the date when the tax payment is due and ending on the date when the penalty notice is declared.

A fixed penalty applies for noncompliance with a provision of the tax laws that does not result in a loss of tax. The minimum penalty is New TL 1.5 and the maximum penalty is New TL 66.

A special noncompliance fine applies for incorrectly preparing, or not issuing, documents specified in the Tax Procedural law. The amount of the fine depends on the type of document involved. The minimum penalty is New TL 118.

If an error results in a loss of revenue for the tax authorities the offense is subject either to the noncompliance penalty or to the tax loss penalty, whichever is the greater.

UNITED KINGDOM

Country Code 44

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A. At a Glance

| | |
|---------------------|--|
| Name of the Tax | Value Added Tax (VAT) |
| Introduced | 1 April 1973 |
| European Union (EU) | |
| Member State | Yes |
| Administered by | H.M. Customs & Excise http://www.hmce.gov.uk |
| VAT Rates | |
| Standard | 17.5% |
| Reduced | 5% |
| Other | Zero-Rated, Exempt and Exempt with Credit |
| VAT Number Format | GB 999.9999.99 |

| | |
|---|---|
| VAT Return Periods | Quarterly Monthly (if requested by a business that receives regular repayments) Annual (if requested and annual taxable turnover is below £150,000) |
| Thresholds | |
| Registration | £58,000 |
| Deregistration | £56,000 |
| Distance Selling | £70,000 |
| Intra-Community Acquisitions | £58,000 |
| Recovery of VAT by Non-Established Businesses | Yes |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in the United Kingdom by a taxable person;
- The intra-Community acquisition of goods from another EU Member State by a taxable person (see the chapter on the European Union);
- Reverse charge services received by a taxable person in the United Kingdom; and
- The importation of goods from outside the European Union, irrespective of the status of the importer.

For VAT purposes, the United Kingdom consists of Great Britain, Northern Ireland and the Isle of Man. It does not include the Channel Islands or Gibraltar.

C. Who Is Liable

A “taxable person” is any entity or person that is required to be registered for VAT. It includes any entity or individual that makes taxable supplies of goods or services, intra-Community acquisitions or distance sales in the United Kingdom in the course of a business in excess of the turnover thresholds.

With effect from 1 April 2004, the VAT registration threshold is £58,000; this threshold generally increases annually. The distance selling threshold is £70,000; this threshold is set by EU law and does not generally increase from year to year.

Exemption from Registration

A taxable person whose turnover is wholly or mainly zero rated (see Section D *VAT Rates*) may request exemption from registration.

Voluntary Registration

A business may register for VAT voluntarily if its taxable turnover is below the VAT registration threshold. A business may also register for VAT voluntarily in advance of making taxable supplies.

Group Registration

Corporate bodies that are under “common control” may apply to register as a VAT group. A VAT group is treated as a single taxable person. The group members share a single VAT number and submit a single VAT return. No VAT is charged on supplies made between group members. Group members are jointly and severally liable for all VAT liabilities.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in the United Kingdom. A non-established business must register for VAT if it makes any of the following supplies in the United Kingdom, in excess of the annual thresholds:

- Goods located in the United Kingdom at the time of supply;
- Intra-Community acquisitions of goods (see the chapter on the European Union);
- Distance sales of goods to U.K. residents who are not taxable persons (see the chapter on the European Union); and
- Services to which the reverse charge (see *Reverse Charge* Section below) does not apply.

A non-established business that registers for VAT may normally do so from its place of business outside the United Kingdom. The application form (VAT 1) may be sent to the following address:

The Aberdeen VAT Office
28 Guild Street
Aberdeen AB9 2DY
United Kingdom

Reverse Charge

If a non-established business supplies services to a U.K. taxable person but does not register for VAT, the taxable person may account for the VAT due under “reverse charge” accounting. This means that the taxable person charges itself VAT. The self-assessed VAT may be deducted as input tax (that is, VAT on allowable purchases) depending on the taxable person’s partial exemption status (see Section F *Recovery of VAT by Taxable Persons*). This provision does not apply in all circumstances, for example, it may not be used for services related to land.

Tax Representatives

A non-established business may choose to appoint a tax representative or agent to act on its behalf in U.K. VAT matters.

The U.K. VAT authorities may require that a non-established person appoint a tax representative. However, this condition may be imposed only if the business is established in a country outside the European Union that has not agreed on mutual assistance provisions with the United Kingdom.

Deregistration

A taxable person that ceases to be eligible for VAT registration must deregister.

A taxable person may also request deregistration if its taxable turnover drops below the deregistration threshold (£56,000 in 2004), or if its taxable turnover is wholly or mainly zero-rated

(see Section D *VAT Rates*). However, deregistration is not compulsory in these circumstances.

Late Registration Penalties

A penalty is assessed for late VAT registration, which is calculated as a percentage of the VAT due (output tax less input tax). The penalty rate that applies depends on the length of time between when a business should have been registered and when it actually is registered. If this period is less than 9 months, then the penalty is 5% of the VAT due. If the period is between 9 and 18 months, the penalty increases to 10% of the VAT due. For businesses that register more than 18 months late, the penalty rate is 15% of the VAT due. The minimum penalty is £50.

Penalties apply to a range of other offenses (see Section I *VAT Returns and Payments*).

D. VAT Rates

In the United Kingdom, the term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services not liable to tax which do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*). In addition, some supplies are classified as “exempt with credit.” Effectively, exempt with credit supplies are treated as if they were zero-rated, although they are not within the scope of VAT. This means that no VAT is chargeable, but the supplier may recover related input tax. Exempt with credit supplies include services supplied to taxable persons in the European Union and to customers outside the European Union.

In the United Kingdom, three rates of VAT currently apply – the standard rate at 17.5%, the reduced rate at 5% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows a reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a zero rate or a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 0% | Examples of Goods and Services Taxable at 5% |
|--|---|---|
| Betting and gaming | Books, newspapers and periodicals | Fuel and power supplied to domestic users and charities |
| Education | Certain foodstuffs | Energy-saving materials |
| Finance | Children’s clothing and footwear | Building materials for residential conversions |
| Insurance | Drugs and medicines supplied on prescription | Sanitary protection products |
| Land (in most cases) | New housing | Children’s car seats |
| Postal services | Transport services | |
| Human blood products | Exports of goods and related services | |
| Medical services | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The “basic” tax point under U.K. law is the point when the goods are either removed from the supplier’s premises or made available to the customer, or when the services are performed.

The basic tax point may be overridden by the creation of what is termed an “actual” tax point. An actual tax point occurs in the following circumstances:

- Before the basic tax point – if the supplier issues a VAT invoice or receives payment in respect of the supply, a tax point is created to the extent covered by the invoice or payment; or
- After the basic tax point – if an invoice is issued within 14 days of the supply, the date of the invoice becomes the tax point. Taxable persons may request permission to extend this invoicing tax point up to a maximum of 30 days after the basic tax point.

Deposits and Prepayments

The receipt of a deposit or prepayment normally creates an actual tax point, if the amount is paid in the expectation that it will form part of the total payment for a particular supply. A tax point is created only to the extent of the payment received.

Intra-Community Acquisitions

The time of supply for an intra-Community acquisition of goods is the 15th day of the month following the month when the acquisition occurred. If the supplier issues an invoice prior to this date, the tax point is when the invoice is issued.

Intra-Community Supplies of Goods

For intra-Community supplies of goods, the time of supply is the earlier of the 15th day of the month following the month when the goods are removed from the supplier or the date when the VAT invoice is issued.

Imported Goods

The time of supply for imported goods is the date of importation, or when the goods leave a duty suspension regime.

Goods Sent on Approval or For Sale or Return

The tax point for goods sent on approval or for sale or return is the earlier of when the goods are accepted by the customer or 12 months after their removal from the supplier. However, if a VAT invoice is issued before these dates, the invoice creates an actual tax point, up to the amount invoiced.

Continuous Supplies of Services

If services are supplied continuously, a tax point is created each time a payment is made or a VAT invoice is issued, whichever happens earlier.

Reverse Charge Services

The tax point for reverse charge services is when the consideration for the services is paid. If the consideration for the services is not in money, the tax point is the last day of the VAT period in which the services are performed.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within the United Kingdom, VAT paid on imports of goods into the United Kingdom and VAT self-assessed on the intra-Community acquisition of goods and reverse charge services (see the chapter on the European Union).

A valid tax invoice or customs document must generally accompany a claim for input tax.

Special rules apply to the recovery of input tax on expenditure incurred before registration and after deregistration.

Non-Deductible 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase of a car (unless the car is available exclusively for business use)
 50% of VAT incurred on the rental or lease of a car used for mixed business and private purposes
 Private expenditure
 Assets transferred as part of a going concern
 Business entertainment and hospitality

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Conferences, exhibitions, training and seminars
 Taxi services
 Restaurant expenses for employees
 Accommodation
 Motoring expenses and fuel for business purposes
 Business use of a home telephone

Partial Exemption

Input tax directly related to making exempt supplies is generally not recoverable. If a taxable person makes both exempt and taxable supplies, it may not recover input tax in full. This situation is referred to as “partial exemption.”

A U.K. taxable person that makes exempt supplies may calculate the amount of VAT it may recover in a number of ways. The standard partial exemption calculation method is a two-stage calculation:

- The first stage identifies the input VAT that may be directly allocated to taxable and to exempt supplies. Input tax directly allocated to taxable supplies is deductible; input tax directly

related to exempt supplies is not deductible. Supplies that are exempt with credit are treated as “taxable supplies” for these purposes;

- The second stage identifies the amount of the remaining input tax (for example, input tax on general business overheads) that may be allocated to taxable supplies and recovered. The calculation of recoverable VAT may be performed using the general pro rata method based on values of supplies made, or it may be based on a special calculation agreed with the VAT authorities.

If the standard calculation gives an unfair or distortive result, a special calculation method may be agreed with the VAT authorities, and in some cases the authorities may impose the use of a special calculation method.

Capital Goods

Capital goods are items of capital expenditure that are used in a business over several years. Input tax is deducted in the VAT year in which the goods are acquired. The amount of input tax recovered depends on the taxable person’s partial exemption recovery position in the VAT year of acquisition. However, the amount of input tax recovered for capital goods must be adjusted over time, if the taxable person’s partial exemption recovery percentage changes during the adjustment period.

In the United Kingdom, the capital goods adjustment applies to the following assets for the number of years indicated:

- Land and buildings valued at £250,000 or more (adjusted for a period of 10 years); and
- Computer hardware valued at £50,000 or more (adjusted for a period of five years).

The adjustment is applied each year following the year of acquisition to a fraction of the total input tax ($\frac{1}{10}$ for land and buildings and $\frac{1}{5}$ for computer hardware). The adjustment may result in either an increase or a decrease of deductible input VAT, depending on whether the ratio of taxable supplies made by the business has increased or decreased compared with the year in which the capital goods were acquired.

Refunds

If the amount of VAT recoverable exceeds the amount of VAT payable in a period, a refund may be claimed. This is done automatically by submitting the periodic VAT return. A taxable person that receives regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

G. Recovery of VAT by Non-Established Businesses

The United Kingdom refunds VAT incurred by businesses that are neither established nor registered for VAT in the United Kingdom. A non-established business is allowed to reclaim VAT to the same extent as a VAT-registered business.

For businesses established in the European Union, a refund is made under the terms of the EU 8th Directive; for businesses established outside the European Union, a refund is made under the terms of the EU 13th Directive. The United Kingdom does not generally exclude businesses from any country from eligibility.

VAT incurred in the Isle of Man may also be refunded through this procedure.

For the general VAT refund rules of the EU 8th and 13th Directives, see the chapter on the European Union.

Refund Application

For businesses established in the European Union, refunds are based on the calendar year, and the final deadline for refund claims is 30 June of the year following the year when the tax was incurred. For businesses established outside the European Union, refunds are based on the period from 1 July to 30 June, and the final deadline for refund claims is 31 December following the refund period when the tax was incurred.

Claims must be submitted in English and must be accompanied by the appropriate documentation (see the chapter on the European Union). The minimum claim period is three months; the maximum period is one year. The minimum claim for a period of less than a year is £130. For an annual claim, the minimum amount is £16.

Applications for refunds of U.K. VAT may be sent to the following address:

HM Customs & Excise, VAT Overseas Repayments
8th/13th Directive
Customs House
PO Box 34
Londonderry BT48 7AE
Northern Ireland

H. Invoicing

VAT Invoices and Credit Notes

A U.K. taxable person must generally provide a VAT invoice for all taxable supplies made, including exports and intra-Community supplies (see the chapter on the European Union). Invoices are not automatically required for retail transactions, unless requested by the customer.

A VAT invoice is necessary to support a claim for input tax deduction or a refund under the EU 8th or 13th Directive refund schemes (see the chapter on the European Union).

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply. The credit note must reflect a genuine mistake, an overcharge or an agreed reduction in the value of the original supply. A credit note must be issued within one month of the mistake or overcharge being discovered, and it must be cross-referenced to the original VAT invoice.

Proof of Exports and Intra-Community Supplies

U.K. VAT is not chargeable on supplies of exported goods or on intra-Community supplies of goods except distance selling (see the chapter on the European Union). However, to qualify as VAT-free, exports and intra-Community supplies must be supported by evidence that proves the goods have left the United Kingdom. Acceptable proof includes the following documentation:

- For an export, customs documentation and commercial documentation, such as consignment notes and airway bills; and
- For an intra-Community supply, a range of commercial documentation, such as customer orders, sales invoices, transport documentation and packing lists.

In all cases, the evidence must clearly identify the supplier, the customer, the goods and the destination. The evidence must be obtained within three months of the time of supply and be retained for at least six years.

Foreign Currency Invoices

If a VAT invoice is issued in a foreign currency, all values that are required on the invoice must be converted into pounds sterling (£), using an acceptable rate of exchange. Suppliers may use any of the following rates:

- The market selling rate at the time of supply;
- The VAT authorities' published period rates of exchange; or
- Any other acceptable rate, agreed on in writing with the VAT authorities.

I. VAT Returns and Payment

VAT Returns

VAT returns are generally submitted quarterly. VAT return quarters are staggered into three cycles to ease the VAT authorities' administration, as follows:

- March, June, September and December;
- February, May, August and November; and
- January, April, July and October.

Each taxable person is notified at the time of registration of the return cycle it must use. However, the U.K. VAT authorities will consider a request to use VAT return periods that correspond with a taxable person's financial year. In addition, a taxable person whose accounting dates are not based on calendar months may request permission to adopt nonstandard tax periods.

Taxable persons that receive regular repayments of VAT may request permission to submit monthly returns to improve cash flow.

Returns must be submitted by the last day of the month following the end of the return period. They may be submitted by mail or electronically. Payment in full is also due by the same date. However, taxable persons that pay their VAT return liabilities electronically have an additional 7 days after the normal due date in which to make payment.

VAT returns must be completed in pounds sterling, but return liabilities may be paid in pounds or in Euros (€).

Payments on Account

Taxable persons whose annual VAT liability is greater than £2 million must make payments on account, which are interim payments made at the end of the second and third months of each VAT quarter. The balance of VAT payable for the period is made at the end of the quarter. The amount of the payment is generally

based on the taxable person's VAT liability for the previous 12 months. Electronic transfer must be used for all payments on account.

Cash Accounting

Businesses with annual turnover of less than £660,000 may apply to use cash accounting. Under the cash accounting scheme, businesses account for output VAT and reclaim input VAT on the basis of cash received and paid, not on the basis of invoices issued and received.

Annual Accounting

Businesses with annual turnover of less than £150,000 may apply to complete an annual VAT return. Businesses that use annual accounting must make either three quarterly or nine monthly VAT payments, depending on the level of turnover. Any balancing payment must be made with the annual return. The annual return is due by the last day of the second month following the end of the taxable person's VAT year.

Special Accounting

A special accounting scheme exists for businesses with an annual turnover of less than £125,000. Under the scheme, eligible businesses may opt to calculate VAT due based on a fixed percentage of their total turnover. The percentages range from 5% to 14%, depending on the trade sector to which the business belongs.

Other special accounting schemes exist for retailers, second-hand goods retailers, tour operators, gold traders and farmers.

Penalties

If a VAT return or payment is late, the taxable person is in default and will be issued a surcharge liability notice. The surcharge liability period initially lasts for 12 months from the date of the notice. Any further default within this period triggers a penalty and extends the notice period. The penalty is a percentage of the VAT due.

The percentage penalties are as follows:

- For the first further default in the notice period – a penalty of 2% of the VAT due;
- For the second further default in the notice period – a penalty of 5% of the VAT due;
- For the third further default in the notice period – a penalty of 10% of the VAT due; and
- For the fourth and subsequent further defaults in the notice period – a penalty of 15% of the VAT due (for each further default).

A minimum charge of £30 applies. In the 2% and 5% penalty bands, amounts of less than £200 are not enforced by the VAT authorities. If payment is made on time, but the return is submitted late, no penalty is levied. However, the surcharge liability notice period is extended.

J. EU Declarations

INTRASTAT

A U.K. taxable person that trades with other EU countries must complete statistical reports, known as INTRASTAT, if the value of its sales or purchases exceeds certain thresholds. There are separate reports for intra-Community acquisitions (INTRASTAT Arrivals) and intra-Community supplies (INTRASTAT Dispatches).

The threshold for INTRASTAT Arrivals for the calendar year 2005 is £221,000.

The threshold for INTRASTAT Dispatches for the calendar year 2005 is £221,000.

A taxable person whose intra-Community trade exceeds £13.5 million (for either Arrivals or Dispatches) must also provide additional information concerning terms of delivery.

INTRASTAT declarations must be completed in pounds sterling. The submission deadline is the last day of the month following the end of the INTRASTAT return period.

Penalties may be imposed if a taxable person's INTRASTAT declarations are persistently late, missing or inaccurate.

EU Sales Lists

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

ESLs must generally be submitted within 42 days of the end of the VAT quarter. Taxable persons may request permission to submit monthly ESLs. Small businesses whose intra-Community supplies are less than £11,000 per annum may submit an annual ESL.

Penalties are assessed for the late submission of ESLs and for material inaccuracies in their completion.

URUGUAY

Country Code 598

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A. At a Glance

| | |
|---|---|
| Name of the Tax | Value Added Tax (VAT) |
| Local Name | Impuesto al Valor Agregado (IVA) |
| Date Introduced | 29 December 1972 |
| European Union (EU) Member State | No |
| Administered by | Directorate General of Taxes http://www.dgi.gub.uy |
| VAT Rates | |
| Standard | 23% |
| Reduced | 14% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | Tax Identification Number (known as "RUC") 12 Digits |
| VAT Payments | Monthly |
| VAT Return Periods | Monthly Annually (small VAT taxpayers, as determined by the VAT authorities) |
| Thresholds | |
| Registration | None |
| Recovery of VAT by Non-Established Businesses | No |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods or services made in Uruguay by a taxable person; and
- The importation of goods from outside Uruguay, irrespective of the status of the importer.

C. Who Is Liable

A VAT taxpayer is any taxpayer for income tax purposes that makes taxable supplies of goods or services in the course of doing business in Uruguay. No registration threshold applies. The definition of a VAT taxpayer applies to a permanent establishment of a foreign business in Uruguay.

Group Registration

VAT grouping is not allowed under the Uruguayan VAT law. Legal entities that are closely connected must register for VAT individually.

Non-Established Businesses and Tax Representatives

A "non-established business" is a business that has no fixed establishment in the territory of Uruguay. In order to register as a taxpayer, a non-established business must have an address in Uruguay and must appoint a tax representative to undertake its VAT obligations (such as filing returns).

Late Registration Penalties

Penalties and interest are assessed for late registration for VAT.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Exempt supplies do not give rise to a right of input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Uruguay, three rates of VAT currently apply – the standard rate at 23%, the reduced rate at 14% and the zero rate (0%). The standard rate applies to all supplies of goods or services, unless a specific provision allows the zero rate, the reduced rate or an exemption.

The following table lists examples of exempt supplies of goods and services, and supplies of goods and services that are taxed at a reduced rate of VAT. This list is not exhaustive.

| Examples of Exempt Supplies of Goods and Services | Examples of Goods and Services Taxable at 0% | Examples of Goods and Services Taxable at 14% |
|--|---|--|
| Foreign currency, securities, bonds and stocks, and other financial transactions | Exports of goods | Basic Foodstuffs |
| Real estate transactions | | Soap |
| Cigars | | Medicines |
| Milk | | Services supplied by hotels in “high season” |
| Books, newspapers, magazines and educational material | | Tourist services |
| Water | | Fruits, flowers, vegetables |
| Services supplied by hotels in “low season” | | |

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” The basic time of supply is either when the goods are transferred or when the services are performed. The invoice for the transaction must be issued at the time of supply.

Imported Goods

The time of supply for imported goods is either the date of importation or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax (or credit VAT), which is VAT charged on goods and services supplied to it for business purposes. Input tax is generally recovered by being deducted from output tax (or debit VAT), which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services supplied within Uruguay and VAT paid on imports of goods.

A valid tax invoice or customs document must generally accompany a claim for input tax credit.

Non-Deductible Input Tax

Input tax may not be recovered on purchases of goods and services that are not used for making taxable supplies or for other 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 table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is related to a taxable business use, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase of a car, van or truck by a professional
Restaurant meals (unless within the limit established by law)

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Business gifts
Purchase, lease or hire of cars, vans and trucks, except by professionals
Advertising and sponsorship
Fuel for vehicles
Parking
Travel expenses
Attendance at conferences and seminars
Business use of home telephone and mobile phones

Refunds

If the amount of input VAT (credit VAT) recoverable in a month exceeds the amount of output VAT (debit VAT) payable, the excess credit may be carried forward to offset output tax in the following tax period.

G. Recovery of VAT by Non-Established Businesses

Uruguay does not refund VAT incurred by foreign businesses unless they have a permanent establishment in Uruguay.

H. Invoicing

VAT Invoices and Credit Notes

A VAT taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. An invoice may not be issued for an amount less than UYP 30. A VAT invoice is necessary to support a claim for an input tax credit.

A VAT credit note may be used to reduce the VAT charged and reclaimed on a supply of goods and services. A credit note must contain the same information as a VAT invoice.

Exports

Uruguayan VAT is not chargeable on supplies of exported goods. However, to qualify as VAT-free, exports must be supported by customs documents that give evidence confirming that the goods have left Uruguay.

Foreign Currency Invoices

If an invoice is issued in a foreign currency, the amounts may be converted to Uruguayan pesos (UYP) using the buyer exchange rate used between banks on the day before the transaction.

I. VAT Returns and Payment**VAT Returns**

VAT returns are generally submitted monthly. “Small VAT taxpayers” must submit returns annually (the tax authorities decide which businesses qualify as “small VAT taxpayers”). However, VAT payments must be made monthly by all VAT taxpayers.

Monthly VAT returns and payments are due in the month following the month when the transactions are reported. The exact date for payment depends on the taxpayer’s registration number (RUC).

Small VAT taxpayers must file annual tax returns in the fourth month following the end of the taxpayer’s fiscal year. For example, if a small VAT taxpayer closes its fiscal year in December, its annual VAT return is due in April. The exact date for payment depends on the taxpayer’s registration number.

VAT return liabilities must be paid in Uruguayan pesos.

Penalties

A penalty of 20% is imposed for late submission of the VAT return or late payment of VAT. In addition, interest is charged on late payments of tax at a rate that varies.

Penalties for severe cases of nonpayment of VAT, as well as infringement of VAT regulations and fraud, include criminal sanctions, such as fines and imprisonment.

ZAMBIA

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A. At a Glance

| | |
|---|--|
| Name of the Tax | Value Added Tax (VAT) |
| Date Introduced | July 1995 |
| European Union (EU) Member State | No |
| Member of the South Africa Customs Union | No |
| Administered by | Zambia Revenue Authority www.zra.org |
| VAT Rates | |
| Standard | 17.5% |
| Other | Zero-Rated and Exempt |
| VAT Number Format | 12345678 – 13 (limited companies) 12345678 – 12 (partnerships) 12345678 – 11 (individuals) |
| VAT Return Periods | Monthly |
| Registration Threshold | K 200 million (in any 12 consecutive months) K 50 million (in any three consecutive months) |
| Recovery of VAT by Non- Established Businesses | Yes (limited to exports) |

B. Scope of the Tax

VAT applies to the following transactions:

- The supply of goods and services in Zambia by a taxable person;
- Reverse charge services received by a taxable person in Zambia; and
- The importation of goods from outside Zambia, irrespective of the status of the importer.

C. Who Is Liable

Any person who makes supplies of taxable goods and services in Zambia in the course of a business is liable to register for VAT if its turnover exceeds the registration threshold, as follows:

- Turnover of K 200 million (in any 12 consecutive months); or
- Turnover of K 50 million (in any three consecutive months).

Group Registration

Group VAT registration is available between corporate bodies. The businesses must be broadly similar in nature and they should be administered by the same management team.

Non-Established Businesses

A “non-established business” is a business that has no fixed establishment in Zambia. A foreign company may not register for Zambian VAT unless it has a place of business in the country. It must also make taxable supplies of goods or services.

A foreign business that makes supplies in Zambia must appoint a representative who is responsible for registration and payment of VAT. If an agent is not appointed, the non-established business is

not permitted to deduct input tax (see Section F *Recovery of VAT by Taxable Persons*).

Reverse Charge Services

A reverse charge may apply for services received by a taxable person in Zambia from a non-established service provider. The Zambian VAT law requires that a taxable person must act on behalf of a non-established supplier of services in matters relating to tax, in the following circumstances:

- The supplier is a company that does not have a business establishment in Zambia; or
- The supplier is an individual or partner in a partnership that does not have a usual place of residence in Zambia from which to appoint a person resident in Zambia as a tax agent.

If a tax agent is appointed, the agent invoices the recipient of the services for the VAT payable, collects the tax and accounts for it to the tax authorities. The recipient of the services may claim input tax relief on the basis of the invoice issued by the tax agent (see Section F *Recovery of VAT by Taxable Persons*).

If no tax agent is appointed, the recipient of the service is required to self-assess for the VAT due and declare the output tax as if it were the supplier. However, in this latter case, no input tax relief may be claimed.

Late Registration Penalties

Late registration by traders who are subject to the turnover threshold is liable to a penalty.

D. VAT Rates

The term “taxable supplies” refers to supplies of goods and services that are liable to a rate of VAT, including the zero rate. The term “exempt supplies” is used for supplies of goods and services that are not liable to tax. Persons that make exempt supplies are not entitled to input tax deduction (see Section F *Recovery of VAT by Taxable Persons*).

In Zambia, two rates of VAT currently apply – the standard rate at 17.5% and the zero rate (0%). The standard rate of VAT applies to all supplies of goods or services, unless a specific provision allows the zero rate or an exemption.

The following table lists examples of exempt and zero-rated supplies of goods and services. This list is not exhaustive.

Examples of Exempt Supplies of Goods and Services

Health and educational services
Supply of water and sewerage services
Most public transport services
Real estate transactions
Financial services
Insurance service
Basic foods
Agricultural supplies

Examples of Goods and Services Taxable at 0%

Export of goods
Books and newspapers
Foreign aid donations
Medical supplies and drugs

E. Time of Supply

The time when VAT becomes due is called the “time of supply” or “tax point.” In Zambia, the tax point is when the earliest of the following events occurs:

- Goods are removed from the supplier’s premises;
- Goods are made available to the purchaser;
- Payment for the supply is received; and
- A tax invoice is issued.

Imports

The time of the supply for imported goods is either the date of importation, or when the goods leave a duty suspension regime.

F. Recovery of VAT by Taxable Persons

A taxable person may recover input tax, which is VAT charged on goods and services supplied to it for business purposes. Input tax is claimed by deducting it from output tax, which is VAT charged on supplies made.

Input tax includes VAT charged on goods and services purchased within Zambia and VAT paid on imports of goods and services.

Non-Deductible Input Tax

VAT 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 on certain business expenses.

The following table sets out examples of items of expenditure for which input tax is not deductible and, if the expenditure is for purposes of making a taxable supply, examples of items for which input tax is deductible. This list is not exhaustive.

Examples of Items for which Input Tax Is Non-Deductible

Purchase and hire of passenger cars
 Business gifts valued at more than K 25,000
 Office and home telephone and mobile phone service
 Business entertainment
 Fuel for passenger vehicles
 Petrol

Examples of Items for which Input Tax Is Deductible (if related to a taxable business use)

Purchase, hire and maintenance of commercial motor vehicles
 Business gifts valued at less than K 25,000
 Mobile phone handsets
 Hotel accommodation
 Utilities
 Educational material

Partial Exemption

VAT directly related to making exempt supplies is not recoverable. A registered person who makes both exempt and taxable supplies may not recover VAT tax in full. This situation is referred to as “partial exemption.” In Zambia, if a taxable person supplies both taxable and exempt goods and services, the amount of input tax recoverable is calculated using a simple pro rata based on the value of taxable and exempt supplies made.

Refunds

If the amount of input tax in a period exceeds the amount of output tax due, a taxable person may request a VAT refund. VAT refunds are generally paid within three months. However, no interest is payable if the refund is paid late.

G. Recovery of VAT by Non-Established Businesses

Zambia does not generally refund VAT incurred by a foreign business unless it is registered for VAT there. However, a refund scheme was introduced with effect from 1 November 1997 that allows a VAT refund to be paid to a non-established business that purchases goods from a Zambian VAT registered supplier for onward export.

The refund scheme applies to foreign passport holders that are on a business visit to Zambia. The scheme only applies to commercial export consignments that do not otherwise qualify for VAT zero-rating. The refund is restricted to VAT paid on goods supplied by a participating supplier. No VAT incurred on other expenditure in Zambia is recoverable using this scheme.

Refund Application

The foreign exporter pays the full VAT amount on the export consignment to a participating supplier, at the time of purchase. The first time that the scheme is used, the participating supplier must issue a commercial export tax invoice (Form VAT 283) and a commercial export authorization (Form VAT 284). For subsequent exports, the supplier need only issue an export tax invoice (Form VAT 283). The exporter is required to declare the goods to Customs at the port of exit from Zambia, together with Forms VAT 283 and VAT 284 for verification and certification.

Customs officials at the port of exit retain a refund copy of the VAT 283 and VAT 284 for first exports and subsequently dispatch them to the Zambia Revenue Authority for processing. The exporter may retain a certified copy of the forms for its records.

Once the refund has been processed, the amount is either sent to the exporter's destination address, or an authorized representative may collect the refund in Lusaka. Any authorized representative must be indicated on Form VAT 284 by the exporter.

To qualify for this scheme the export should be through the following designated exit points from Zambia:

- Lusaka International airport;
- Mpulungu Border Post;
- Kasumbalesa Border Post;
- Mwami Border Post;
- Nakonde Border Post;
- Chirundu Border Post;
- Kazungula Border Post; or
- Victoria Falls Border Post.

To participate in the scheme, a foreign business must apply in writing to the Commissioner of Value Added Tax. An application form (Form VAT 282) may be obtained by writing to the following address:

The Assistant Commissioner-VAT Credibility
Zambia Revenue Authority
1st Floor, Eastern Wing
Revenue House
Private Bag W136
Lusaka

H. Invoicing

VAT Invoices and Credit Notes

A supplier of taxable goods and services is required to issue a tax invoice to the purchaser. A valid tax invoice is required to accompany all claims for input tax deduction. A credit note may be used to reduce the VAT charged on a supply of goods or services. Credit notes should show the same information as a tax invoice.

Proof of Exports

Goods exported from Zambia are zero-rated. However, to qualify for a zero rating, exports must be supported by customs evidence that proves the goods have left the country.

Foreign Currency Invoices

Invoices issued using a foreign currency must indicate the equivalent in Zambian Kwacha (K) using the exchange rate for the date of the transaction.

I. VAT Returns and Payment

VAT Returns

The VAT tax period is one month. Returns must be filed by the 21st day after the end of the tax period. Payment is due in full by the same date.

Penalties

Late submission of a VAT return is subject to a penalty.

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EYG No. OO0393